

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R12-15-703.01 | New Section |

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

Authorizing statute: A.R.S. § 45-105(B)(1)
Implementing statute: A.R.S. § 45-576

- 3. List of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 6 A.A.R. 1915, May 26, 2000
Notice of Rulemaking Docket Opening: 6 A.A.R. 4511, December 1, 2000

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

Name:	Steve Rossi, Manager Office of Assured Water Supply
Address:	Arizona Department of Water Resources 500 North Third Street Phoenix, Arizona 85004
Telephone:	(602) 417-2460
Fax:	(602) 417-2423
OR	
Name:	Charles L. Cahoy, Deputy Counsel Legal Division
Address:	Arizona Department of Water Resources 500 North Third Street Phoenix, Arizona 85004
Telephone:	(602) 417-2420
Fax:	(602) 417-2415

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

This proposed rule specifies how an applicant for an assured water supply may establish and maintain legal availability of Colorado River Water or Central Arizona Project Water leased from an Arizona Indian community. Under the current Assured Water Supply rules, designated providers cannot realistically rely upon leased water for Assured Water Supply purposes. The proposed rule provides greater flexibility to designated providers using Colorado River Water or Central Arizona Project Water leased from an Arizona Indian community in meeting their Assured Water Supply requirements, therefore allowing greater utilization of available Colorado River supplies to meet the growing needs of Arizona's municipalities. The proposed rule balances the additional flexibility granted to designated providers against maintaining secure water supplies for those customers that depend on the water delivered by the providers.

Under A.R.S. § 45-576(A), found in Arizona's Groundwater Code, all persons proposing to offer subdivided lands for sale or lease in an active management area must establish that an "assured water supply" exists for the proposed subdivision. "Assured water supply" is partly defined by A.R.S. § 45-576(I) to mean that a sufficient supply of water is available to satisfy the water needs of the proposed use for at least 100 years. Accordingly, the Department's Assured Water Supply rules mandate that an applicant for an assured water supply must demonstrate physical, legal, and continuous availability for 100 years.

There are two methods by which a person who proposes to offer subdivided lands may comply with the requirements of the Assured Water Supply Program. A person may apply for and obtain a certificate of assured water supply from the Department for a particular proposed subdivision. Or, one may obtain a written commitment of water service for the proposed subdivision from a city, town, or private water company that has been designated by the Department of Water Resources as having an assured water supply.

In order for a city, town, or private water company to become designated as having an assured water supply, it must demonstrate to the Department that adequate supplies exist for its current demand, its committed demand (the estimated demand of all recorded lots within the boundaries of the area which are not yet served), and a minimum of two years of projected demand. The provider must be able to meet at least this amount of demand for 100 years.

The determination of the 100-year supply for a designated provider is an ongoing process. If a designated provider pledges a 100-year lease of water to an assured water supply determination, the lease meets the 100-year requirement of the Assured Water Supply rules upon its effective date. However, as time passes and the remaining term of the lease is less than 100 years, a designated provider must pledge backup supplies sufficient to compensate for time passage on the lease. For example, if one year has passed, the designated provider must acquire one year's worth of an additional water supply in order to maintain compliance with the 100-year availability requirement. Thus, designated providers must continually prove a "rolling" 100-year supply. The Department regularly reviews all designated providers' compliance with the Assured Water Supply Rules, and a designation may be revoked if the water provider no longer has sufficient backup supplies to compensate for passage of time on the lease.

In contrast, certificate applicants are required only to demonstrate a fixed 100-year supply. A Certificate of Assured Water Supply issued to a developer based upon water service from an undesignated provider is reviewed only in the initial application. Once the certificate is issued and lots have been sold, the certificate is no longer subject to review or revocation by the Department.

Water providers regulated by the Department have perceived the annual review of designated providers' water supply as penalizing designated providers who, by the nature of the designation instrument, must continually plan for a 100-year water supply. The Department initiated this rule in response to requests from municipalities who currently lease Colorado River Water or Central Arizona Water from Indian communities or who intend to do so in the future.

Under the proposed new rule, the lease on its own terms, or in combination with other water supplies, must provide a water supply to the designation applicant for 100 years. Thereafter, the lease is found to continue to meet the 100-year requirement through the fiftieth year of the lease. After 50 years, the city, town, or private water company must present evidence to the Director of the Department of ongoing negotiations with the Indian community to renew the lease, and ten years is allowed to come to an agreement for renewal of the lease. And, to ensure security of water supplies for the designated provider's customers, the designated provider must show that either no more than 15% of the total water supplies established as being physically, continuously, and legally available are obtained through leases with Indian communities or that either a groundwater or non-groundwater source of water will be physically, continuously, and legally available at the end of the lease term to substitute for the leased water for the remainder of the 100-year period.

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

There were no specific studies relied upon in the development of this rule. There were several informal discussions and meetings, and the product of these meetings was a consensus "concept paper" which formed the basis of the rule proposal. The concept paper may be reviewed at the office of the Arizona Department of Water Resources, Office of Assured Water Supply, 500 North Third Street, Phoenix, Arizona 85004.

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

Not applicable

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

Entities who will be affected by the rule include water providers, business water service customers, subdivision developers, Indian communities, and the general public within the state's five active management areas. Water providers (cities, towns, or private water companies) that either seek or maintain a designation of Assured Water Supply based partly upon water supplies leased from Indian communities will benefit from this rule, which defers the necessity of negotiations to renew the lease until the fiftieth year of the lease. All water service customers, including the general public, business service customers, and subdivision developers will benefit, because designated providers will be better able to obtain and maintain a status of having an assured water supply. Indian communities leasing water to water providers will benefit from the clear terms provided in the rule under which the leases may be used in assured water supply determinations.

For some entities, the rule limits the amount of leased water that can be pledged for assured water supply purposes to fifteen, and, in some cases, twenty percent of the total 100-year supply. Thus, cities, towns, and private water companies, and therefore some business water service customers, subdivision developers, and the general public, might be required to pay a higher price for water supplies other than those leased from an Indian community. However, under the current assured water supply rules, any use of the less expensive leased water to obtain and maintain a designation of assured water supply is not a workable alternative. Further, while allowing use of leased water supplies in excess of 15 or 20% might provide less expensive water supplies in the short term, a crisis could develop at the end of a lease term if 40 or 50% of a water provider's water supply was provided through that lease. And, customers could see a reduced cost of water if providers are able to defer or eliminate the need to acquire supplies 100 years in advance every year of the lease.

Under subsection (C)(2) of the proposed rule, a designated provider might be required to either join the Central Arizona Groundwater Replenishment District or enter into a consent order with the Director of the Department agreeing to replace, through either replenishment or storage, groundwater used at the end of the lease term that is not allowable under another provision of the Assured Water Supply rules. These options might impose additional costs upon a designated provider. However, they should be offset by the lower price of the leased water.

The Department expects the rule to cause no additional administrative burden or other costs to the Department beyond those associated with the current rules. Likewise, the Department anticipates no discernable impact on private or public employment upon the Department or businesses and political subdivisions of the state directly affected by the rule. The Department anticipates no discernable effect on state revenues as a result of this proposed rule modification. No additional costs to small businesses are anticipated.

The proposed rule was found to be the least costly and least intrusive option to provide greater flexibility for designated providers while maintaining secure supplies of water for customers. Other alternatives considered and rejected included (1) eliminating the 100-year requirement (which would require legislation) and replacing it with a term of 50 years or less, and (2) delaying renewal or proving of alternate supplies until the 80th year of the lease, which would not provide as much protection to persons depending upon the assured water supply status.

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

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Office of Assured Water Supply

Address: Arizona Department of Water Resources
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Phoenix, Arizona 85004

Telephone: (602) 417-2460

Fax: (602) 417-2423

OR

Name: Charles L. Cahoy, Deputy Counsel
Legal Division

Address: Arizona Department of Water Resources
500 North Third Street
Phoenix, Arizona 85004

Telephone: (602) 417-2420

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

Persons may submit written comments during business hours to the persons identified in item 9 until the close of record.

An oral proceeding on the rules will be held at 2:00 p.m. on January 31, 2001 at the Arizona Department of Water Resources, 500 North Third Street, Phoenix, 85004 in Conference Rooms A and B on the third floor. In accordance with the Americans with Disabilities Act, persons with a disability may request a reasonable accommodation by contacting the Arizona Department of Water Resources office at (602) 417-2420.

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

None

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

None

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

R12-15-703.01. Assured Water Supply Requirement – Legal Availability of Central Arizona Project Water or Colorado River Water Leased from an Indian Community

ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

R12-15-703.01. Assured Water Supply Requirement - Legal Availability of Central Arizona Project Water or Colorado River Water Leased from an Indian Community

A. Besides the water supplies that the Director determines are legally available to an applicant under A.A.C. R12-15-703(D), the Director shall determine that Colorado River water or Central Arizona Project water leased from an Indian community is legally available to an applicant for a certificate or designation of assured water supply in an amount determined under this Section, if both of the following apply:

- 1.** The water leased has a priority equal to or higher than Central Arizona Project municipal and industrial water.
- 2.** The Indian community is expressly authorized by an Act of Congress to lease the water for use off Indian community lands.

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- B.** For water that meets the requirements of subsection (A) of this Section, the Director shall determine that there is a legally available supply of water for 100 years for the annual amount of water available under the lease, if either of the following apply:
1. The term of the lease has at least 100 years remaining at any time during the year in which the Assured Water Supply application is filed.
 2. The term of the lease has less than 100 years remaining in the year in which the Assured Water Supply application is filed, and the applicant establishes the availability of a supplemental water supply, which together with the leased water, provides a 100-year water supply. The supplemental water supply shall be one of the following supplies of water:
 - a. Groundwater, if the groundwater is physically, continuously, and legally available to the applicant under A.A.C. R12-15-703 and if the groundwater use is consistent with achieving the management goal under A.A.C. R12-15-705.
 - b. Water recovered through the use of long-term storage credits held by the applicant, if both of the following apply:
 - i. The water to be recovered through the use of long-term storage credits is physically and continuously available to the applicant under A.A.C. R12-15-703.
 - ii. If the applicant is to use the long-term storage credits before the beginning of the lease term, the applicant has obtained a recovery well permit that allows the applicant to recover water by redeeming the long-term storage credits.
 - c. Water recovered through the use of long-term storage credits that will be accrued by the applicant, if all of the following apply:
 - i. No more than 10 years of the applicant's supplemental water supply will be provided by the long-term storage credits.
 - ii. The applicant demonstrates to the Director that it will accrue the long-term storage credits within 10 years of the effective date of the designation or certificate by storing the water under an issued water storage permit at a permitted storage facility.
 - iii. The applicant has a supply of water to be stored that is physically, continuously, and legally available to the applicant under A.A.C. R12-15-703 for the time necessary to accrue the needed long-term storage credits.
 - iv. The water to be recovered through the use of long-term storage credits is physically and continuously available to the applicant under A.A.C. R12-15-703.
 - v. If the applicant is to use the long-term storage credits before the beginning of the lease term, the applicant has obtained a recovery well permit that allows the applicant to recover water by redeeming the long-term storage credits.
 - vi. If the applicant is a private water company, the Arizona Corporation Commission has granted any necessary approval to the applicant for the storage of the water.
 - d. Any other water that is physically, continuously, and legally available to the applicant under R12-15-703.
- C.** If the Director finds that the applicant has a legally available supply of water for 100 years under subsection (B) of this Section and designates the applicant as having an assured water supply, or if the Director previously determined that the applicant's Colorado River water or Central Arizona Project water leased from an Indian community was legally available for 100 years under A.A.C. R12-15-703(D) and designated the applicant as having an assured water supply, the Director shall determine that the city, town, or private water company designated as having an assured water supply continues to have a legally available supply of water for 100 years for the annual amount of water available under the lease, if both of the following apply:
1. One of the following apply:
 - a. The lease has at least 50 years remaining in its term.
 - b. The lease has at least 40 years remaining in its term, and the city, town, or private water company provides evidence to the Director of active and ongoing negotiations with the Indian community to renew the lease.
 2. One of the following apply:
 - a. Of the total water supplies that the city, town, or private water company establishes as physically, continuously, and legally available under A.A.C. R12-15-703 and under this Section during any year, no more than 15% of those water supplies are obtained through leases with Indian communities.
 - b. Groundwater will be physically, continuously, and legally available to the city, town, or private water company under A.A.C. R12-15-703 at the end of the lease term to substitute for the leased water for the remainder of the 100-year period, and one of the following apply:
 - i. The projected use of groundwater is consistent with achieving the management goal under A.A.C. R12-15-705.

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- ii. The city, town, or private water company enters into a consent order with the Director under which the city, town, or private water company agrees to replace through replenishment or storage any groundwater used at the end of the lease term that is not consistent with achieving the management goal under A.A.C. R12-15-705. The city, town, or private water company shall agree in the consent order that its specific performance shall be the only remedy in event of default under the consent order.
- c. A non-groundwater source of water will be physically, continuously, and legally available to the city, town, or private water company under A.A.C. R12-15-703 at the end of the lease period to substitute for the leased water for the remainder of the 100-year period.
- d. The governing board or council of the city, town, or private water company submits to the Director a resolution requesting that the city, town, or private water company be allowed to increase its projected use of Indian lease water from 15%, as allowed by subsection (C)(2)(a) of this Section, to 20%, and the Director finds that all of the following apply:
 - i. Of the total water supplies that the city, town, or private water company establishes as physically, continuously, and legally available under A.A.C. R12-15-703 and under this Section during any year, no more than 20% of those water supplies are obtained through leases with Indian communities.
 - ii. Of the total water supplies that the city, town, or private water company establishes as physically, continuously, and legally available under A.A.C. R12-15-703 and under this Section during any year, no more than 15% of those water supplies are obtained through any single lease with an Indian community.
 - iii. The city, town, or private water company does not meet the requirements of subsection (C)(2)(a), (b), or (c) of this Section.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 1. DEPARTMENT OF COMMERCE

PREAMBLE

1. Sections Affected

Article 4
R20-1-401
R20-1-402
R20-1-403
R20-1-404
R20-1-405
R20-1-406
R20-1-407

Rulemaking Action

New Article
New Section
New Section
New Section
New Section
New Section
New Section
New Section

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

Authorizing statute: A.R.S. § 41-1504(B)(4)

Implementing statutes: A.R.S. §§ 41-1518.01, 43-1088.01, and 43-1179

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

Notice of Rulemaking Docket Opening: 6 A.A.R. 2790, July 28, 2000

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

Name: Joan Laurence
Address: Arizona Department of Commerce
3800 North Central Ave., Suite #1500
Phoenix, Arizona 85012
Telephone: (602) 280-8181
Fax: (602) 280-1358

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

During the 2000 legislative session, the Arizona legislature enacted the Technology Training Assistance Program, HB 2442 (Laws 2000, Ch. 239, Sections 1 through 3). This legislation requires the Department of Commerce to establish a program to encourage employers to provide their employees with continuing technology skills training. The Department is required to identify information technology skills and occupations that are in short supply and critical to the economic development of Arizona. The Department also certifies tax credits for qualifying technology skills training programs offered by accredited educational institutions when eligibility requirements are met. This rulemaking implements these statutory requirements.

Employers providing qualifying job training for their employees may apply for a tax credit of 50% of the amount spent for training, not to exceed \$1,500 per employee per year. An employer may train up to 20 employees a year under this program.

These rules identify skills and occupations that are eligible for tax credits for training under the program. They specify the method of determining training course eligibility and designate additional tax credit eligibility requirements. They establish a process for a preliminary determination of eligibility and an application process. These rules cover certification of an applicant's eligibility for a tax credit and determination of the amount of the credit. They also establish a procedure by which determinations of eligibility or determinations of tax credit amount may be protested.

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

Relating to determination of information technology skills and occupations that are in short supply: "America's New Deficit: The Shortage of Information Technology Workers", 2000, U.S. Department of Commerce, Office of Technology Policy, 14th Street & Constitution Avenue, NW, Washington, DC 20230, (202) 482-3037 (www.ta.doc.gov) or National Technical Information Service, 1-(800) 553-6847 (www.ntis.gov).

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

Not applicable

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

This program is intended to encourage employers to provide continuing technology skills training to their employees by reimbursing the employer through a tax credit for up to one-half of the cost of training. Participation in the program is entirely voluntary. Most of the program's economic, small business, or consumer impact arises from statutory requirements and limitations rather than from the proposed rules. Only the anticipated probable impact of the rules is discussed here.

R20-1-402 "Eligible Technology Skills and Occupations" designates skills and occupations that meet the statutory requirement of being in short supply and critical to economic development in Arizona. This rule has substantial impact on employers and employees because it determines whether a particular skill or occupation will be eligible to participate in the program.

Similarly, the requirements for determining eligibility of a particular course under R20-1-403 "Eligible Technology Skills Training Courses" and the definition of "job related training" in R20-1-401 "Definitions" have a substantial impact on employers and employees through the determination of whether the desired course may be eligible for the program if taken by the designated employee.

A broad definition of eligible skills and occupations necessitates flexibility in determining skills training courses that qualify for assistance. The rules require employers to submit a request for a preliminary determination of eligibility. The employer must demonstrate that the training is for an eligible skill or occupation and is "job related". The course must provide training that is necessary for or useful in the performance of an eligible skill or occupation and be offered by an accredited provider. These requirements and the application process specified in R20-1-406 will impose costs on individual applicants.

An individualized determination of eligibility is required because of the variety of factors that must be considered. One employer may qualify for assistance for sending an employee to a particular training course while another employer may not qualify for assistance when sending an employee to the same course. The Department of Commerce will be impacted by the required review and analysis of the request for a preliminary determination of eligibility and the application. However, the preliminary determination of eligibility should result in reduced costs for both employers and the Department by eliminating the completion and review of an application for requests determined to be ineligible.

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The Department of Commerce will incur minimal costs for drafting these rules and making a list of eligible training providers available to employers, and moderate costs for developing and printing program forms and documents.

The rulemaking will impose minimal costs on the Secretary of State for required filings and publications, and on the Governor's Regulatory Review Council for review.

The burden imposed on small business by this rulemaking is not significant and is necessary for effective program implementation. No practical alternative methods are available to reduce impact.

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

Name: Joan Laurence
Address: Arizona Department of Commerce
3800 North Central Ave., Suite #1500
Phoenix, Arizona 85012
Telephone: (602) 280-8181
Fax: (602) 280-1358

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

Written comments may be submitted until 5:00 p.m. on January 29, 2001 to the person identified in item 4.

The Department will conduct an oral proceeding on January 29, 2001 at 9:00 a.m. at the following location for the purpose of taking oral and written testimony on the proposed rules from members of the public: Arizona Department of Commerce, 3800 N. Central Ave., Suite #1500, Phoenix, Arizona 85012. (Please call (602) 280-1352 for special accommodations pursuant to the Americans with Disabilities Act.)

The public record on the proposed rulemaking will close at 5:00 p.m. on January 29, 2001.

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

None

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

None

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 1. DEPARTMENT OF COMMERCE

ARTICLE 4. TECHNOLOGY TRAINING ASSISTANCE PROGRAM

<u>R20-1-401.</u>	<u>Definitions</u>
<u>R20-1-402.</u>	<u>Eligible Technology Skills and Occupations</u>
<u>R20-1-403.</u>	<u>Eligible Technology Skills Training Courses</u>
<u>R20-1-404.</u>	<u>Tax Credit Eligibility</u>
<u>R20-1-405.</u>	<u>Tax Credit Amount</u>
<u>R20-1-406.</u>	<u>Application Process</u>
<u>R20-1-407.</u>	<u>Protest</u>

ARTICLE 4. TECHNOLOGY TRAINING ASSISTANCE PROGRAM

R20-1-401. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

1. "Accredited" means accredited by an accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation. For private educational institutions located in Arizona, the Arizona State Board for Private Postsecondary Education shall determine accreditation status. For private educational institutions not located in Arizona, the employer shall provide evidence of accreditation.
2. "Applicant" means an employer seeking certification of a tax credit under the Technology Training Assistance Program and this Article.

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3. “Course” means an individual course or a series of approved related courses.
4. “Department” means the Department of Commerce of this state.
5. “Director” means the Director of the Department of Commerce of this state.
6. “Interested party” means the same as in A.A.C. R2-7-901, and includes any employer submitting a “Request for a Preliminary Determination of Eligibility” and any applicant for a tax credit under this Article.
7. “Job related training” or “job related” means training that provides new skill or knowledge, or significantly enhances existing skill or knowledge, that is necessary for efficient and productive performance of the employee’s current or intended position with an applicant.
8. “Request for a Preliminary Determination of Eligibility” means a form, containing the information required under this Article, submitted by an employer at least 30 days prior to the start date of a training course for which the employer intends to request a tax credit. The information allows the Department to make a determination whether or not the course may be eligible for a tax credit provided that all other applicable requirements are met.

R20-1-402. Eligible Technology Skills and Occupations

The Department has identified skills and occupations that primarily involve the study, design, development, implementation, support, or management of computer-based information systems, particularly software applications and computer hardware to be in short supply and critical to the economic development of Arizona, and therefore eligible for assistance under this Article.

R20-1-403. Eligible Technology Skills Training Courses

- A.** Technology skills training courses shall be offered by an accredited:
1. College.
 2. University.
 3. Private career school, or
 4. Other postsecondary educational institution.
- B.** The Department shall publish a list of accredited Arizona training providers, and shall revise the list as required to remain current.
- C.** The Department shall:
1. Post the list published under subsection (B) on the Department’s web site; and
 2. Provide a copy of the list to any person upon request.
- D.** Pursuant to subsection (F), the Department shall certify training courses to be eligible for employer tax credits under A.R.S. § 43-1088.01 or § 43-1179 provided that all other requirements for a tax credit under this Article and applicable statutes are met. Eligible courses shall:
1. Provide training that is necessary for or useful in the performance of eligible technology skills and occupations designated under R20-1-402; and
 2. Meet the requirements of applicable statutes and this Article.
- E.** Prior to enrolling an employee into a technology skills training course for which an employer intends to request a tax credit under this Article, the employer shall:
1. Select a training course offered by an accredited training provider.
 2. For each course, submit to the Department at least 30 days prior to the proposed course start date a completed “Request for a Preliminary Determination of Eligibility” form provided by the Department. The form shall include the following information:
 - a. Accredited training provider’s name;
 - b. Name of course for which approval is requested;
 - c. Training provider’s detailed description of course for which approval is requested;
 - d. Start date and end date of training;
 - e. Estimated cost of tuition and materials that are mandatory under course requirements;
 - f. Employer’s detailed explanation demonstrating that the position of the employee to be trained requires a skill or is an occupation identified by the Department under R20-1-402 as eligible for assistance under this Article.
 - g. A certification signed and dated by employer that information provided is true and complete to the best of employer’s knowledge; and
 - h. Printed name and title of person signing the certification.
- F.** The Department shall review the “Request for a Preliminary Determination of Eligibility” and within 10 calendar days following receipt of the request shall notify the employer that:
1. Based upon information provided in the request:
 - a. The employee’s position requires a skill or is an occupation identified by the Department under R20-1-402; and
 - b. The training is job related as defined in R20-1-401; and
 - c. The course is eligible for a tax credit provided that all other requirements for a tax credit under this Article and applicable statutes are met; or
 2. Based upon information provided in the request:

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- a. The course is not eligible for a tax credit; or
- b. The training is not job related; or
- c. The employee's position does not require a skill or is not an occupation identified by the Department under R20-1-402; and
- d. The reason for ineligibility.

R20-1-404. Tax Credit Eligibility

- A.** To be eligible for a tax credit:
1. Training for which credit is claimed shall be job related as defined in R20-1-401;
 2. The employee's current or intended position for which training is provided shall require an eligible skill or shall be an eligible occupation under R20-1-402;
 3. The Department determined under R20-1-403 that the course is eligible for a tax credit;
 4. The employee to whom training was provided shall have been employed in Arizona by applicant for the entire duration of training;
 5. The employee to whom training was provided successfully completed the course; and
 6. All other requirements for a tax credit under this Article and applicable statutes are met.
- B.** Tax credits shall be available for tax years beginning from and after December 31, 2000 and ending before January 1, 2006.
- C.** Tax credits shall apply against taxes imposed under A.R.S. Title 43.
- D.** An applicant meeting all applicable statutory requirements and the requirements of this Article shall be eligible for a tax credit for qualified expenses incurred by that applicant for providing eligible training to not more than 20 employees during a tax year.

R20-1-405. Tax Credit Amount

- A.** Except as provided in this Section, the amount of a tax credit shall be equal to 50% of the amount actually spent by an applicant during the tax year for qualified expenses for eligible training for that applicant's employees, not to exceed \$1500 per employee trained.
- B.** Qualified expenses shall be limited to the cost of tuition and the reasonable cost of materials that are mandatory under course requirements.
- C.** For purposes of calculating the "amount actually spent by an applicant" under subsection (A), that amount shall not include any public funds from any source, whether state, federal, or other.
- D.** The Department shall not certify tax credits under A.R.S. § 43-1088.01 in any calendar year exceeding \$2,500,000. If qualifying applications exceed \$2,500,000, the Department shall proportionately reduce the amount of tax credit allowed each applicant qualifying for credit.
- E.** The Department shall not certify tax credits under A.R.S. § 43-1179 in any calendar year exceeding \$2,500,000. If qualifying applications exceed \$2,500,000, the Department shall proportionately reduce the amount of tax credit allowed each applicant qualifying for credit.
- F.** Co-owners of a business, including partners in a partnership, shareholders of an S corporation, and corporate partners in a partnership, shall each claim only the pro rata share of the tax credit allowed based upon their ownership interest. The total of tax credits allowed for all co-owners shall not exceed the amount that would have been allowed for a sole owner.

R20-1-406. Application Process

- A.** An applicant shall submit to the Department a request for a tax credit on a form provided by the Department between January 1 and January 15 following the calendar year in which the credit is claimed.
- B.** The completed application form shall contain the following information:
1. Tax year;
 2. Tax ID number;
 3. Applicant's name and address;
 4. Contact person;
 5. E-mail address;
 6. Phone number;
 7. Fax number;
 8. How the applicant files Arizona state income tax returns:
 - a. Sole proprietorship;
 - b. Partnership;
 - c. S Corporation;
 - d. C Corporation;
 - e. LLC; or
 - f. Other – specified;
 9. Are taxes filed on a calendar year basis;

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10. If taxes are not filed on a calendar year basis, the applicant's fiscal year end;
 11. For each employee trained provide a list including:
 - a. Employee's name and social security number;
 - b. Name of course attended; and
 - c. Date training was completed;
 12. Total cost of all training for which a tax credit is requested;
 13. A certification signed and dated by applicant that information provided is true and complete to the best of applicant's knowledge;
 14. Printed name and title of person signing the certification;
 15. Copies of all invoices for:
 - a. Tuition for each training course attended; and
 - b. Materials that are mandatory under course requirements; and
 16. If tax credit is to be claimed by person other than applicant, also provide information required by subsections (1) through (10) for that person.
- C.** An applicant shall mail or deliver a completed application containing all information required by subsection (B) to the address indicated on the application.
- D.** On or before February 15 following the calendar year in which the tax credit is claimed, the Department shall:
1. Review the application;
 2. Determine amount of the tax credit for an applicant eligible for a credit;
 3. Issue a certificate to an applicant eligible for a credit, stating amount of the credit;
 4. Notify the Arizona Department of Revenue regarding the credit; and
 5. If the applicant is not eligible for a tax credit, notify applicant of ineligibility and reason for ineligibility.

R20-1-407. Protest

- A.** Any interested party may file a protest of a determination or proposed determination of:
1. Eligibility for a tax credit under this Article, or
 2. The amount of a tax credit certified under this Article.
- B.** The Director shall resolve protests under subsection (A).
- C.** An interested party may appeal the Director's resolution of a protest to the Director of the Department of Administration.
- D.** Any protest under subsection (A) or appeal under subsection (C) shall be resolved in accordance with the rules of procedure contained in 2 A.A.C. 7, Article 9.