

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE AGRICULTURAL COUNCILS AND COMMISSIONS

PREAMBLE

- 1. Section Affected:** R3-9-302
Rulemaking Action
New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 3-1083
Implementing statute: A.R.S. § 3-1086(B)
- 3. The effective date of the rule:**
January 1, 2005
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 3091, August 6, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 3048, August 6, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Larry Antilla
Address: Arizona Cotton Research and Protection Council
3721 E. Wier Ave.
Phoenix, AZ 85040-2933
Telephone: (602) 438-0059, ext. 24
Fax: (602) 438-0407
E-mail: lantilla@azcotton.com
or
Name: Mary Sommers
Address: Arizona Cotton Research and Protection Council
3721 E. Wier Ave.
Phoenix, AZ 85040-2933
Telephone: (602) 438-0059, ext. 17
Fax: (602) 438-0407
E-mail: msommers@azcotton.com
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
A.R.S. § 3-1086(B) requires the Arizona Cotton Research and Protection Council to prescribe a form for cotton producers to use to register each acre of non-Bt cotton. The rule describes the detailed reporting requirements for non-Bt cotton acreage registration.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, and any analysis of each study and other supporting material:**
None

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- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**
There is no significant economic, small business and consumer impact as a result of prescribing reporting forms unless the minimal time required to complete a form would be considered. The Council will incur a minimal labor and material cost to prepare, print and mail a self-addressed, postage-paid form.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
The final rule contains minor grammatical changes to improve clarity. The final rule reduces requested information on the form to only those items necessary to identify growers with non-Bt cotton acreage.
- 11. A summary of the comments made regarding the rule and the agency response to them:**
No comments were received.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None
- 13. Incorporations by reference and their location in the rules:**
None
- 14. Was this rule previously made as an emergency rule?**
No
- 15. The full text of the rule follows:**

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE
AGRICULTURAL COUNCILS AND COMMISSIONS

ARTICLE 3. ARIZONA COTTON RESEARCH AND PROTECTION COUNCIL

Section

R3-9-302. Non-Bt Cotton Acreage Registration Form

ARTICLE 3. ARIZONA COTTON RESEARCH AND PROTECTION COUNCIL

R3-9-302. **Non-Bt Cotton Acreage Registration Form**

- A.** Each December the Arizona Cotton Research and Protection Council shall mail the Non-Bt Cotton Acreage Registration Form and a fee schedule to cotton producers who certify cotton acreage with the Farm Service Agency during the year. A producer who did not certify cotton acreage with the Farm Service Agency may obtain the report form and a fee schedule from the Arizona Cotton Research and Protection Council office.
- B.** Within 30 days after the tillage deadline in R3-4-204 a producer shall complete and submit Non-Bt Cotton Acreage Registration Form to the Arizona Cotton Research and Protection Council. The producer shall provide the following information:
1. The producer name, mailing address, telephone and facsimile number;
 2. The Farm Service Agency farm number;
 3. The cultural zone;
 4. The crop year;
 5. The intended non-Bt cotton acreage.

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

PREAMBLE

- 1. Sections Affected**

R4-26-101	Amend
R4-26-204	Amend
R4-26-205	Amend
R4-26-207	Amend
Table 1	Amend
R4-26-211	Amend
R4-26-308	Amend
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 32-2063
Implementing statutes: A.R.S. §§ 32-2061(A)(2) and (8); 32-2063; 32-2071 through 32-2076; 32-2081
- 3. The effective date of the rule:**

January 1, 2005
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 2606, June 25, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 2918, July 23, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Maxine McCarthy, Executive Director
Address: Board of Psychologist Examiners
1400 W. Washington, Room 235
Phoenix, AZ 85007
Telephone: (602) 542-8162
Fax: (602) 542-8279
E-mail: info@psychboard.az.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**

Changes to R4-26-101 amend the definition of "confidential record" and "national examination". Changes to R4-26-204 amend the Board's remedial examination procedures and add deadlines for taking the examination. Changes to R4-26-205 eliminate the gathering of information not required by statute for license renewal. Changes to R4-26-207 simplify the method of computing the prorated amount of continuing education (CE) that new licensees must complete; add the requirement that licensees obtain four hours of CE in the subject area of domestic violence and child abuse; allow licensees to receive ethics credit for attending Board meetings; and remove the requirement that licensees must keep documentation of CE for the last four years. Changes to Table 1 "Time-frames (in Days) for Processing Applications" lengthen the Board's substantive review of applications from 60 days to 90 days. Changes to R4-26-211 remove the requirement that foreign applicants provide a personally prepared chronological statement of studies and research that is comparable to a transcript. Finally, changes to R4-26-308 make it consistent with A.R.S. § 41-1092.09(C). The Board has initiated this rulemaking in response to its Five-Year-Review of Rules.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 9. A summary of the economic, small business, and consumer impact:**

Many of the rule changes will result in minimal savings in administrative costs by eliminating inefficient procedures and reducing burdens on Board staff. Applicants and licensees would have a small benefit as well through reduced administrative requirements. The requirement that licensees obtain four hours of continuing education ("CE") every

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two years in child abuse or domestic violence will impose a minor burden on licensees. These hours, however, are not additional, but a part of the 60 hours of CE that are already required every two years. Licensees will also be able to fulfill the requirement that they obtain four hours of CE credit in ethics by attending Board meetings. This may result in more licensees attending Board meetings and improving their understanding of the Board's procedures and ethical mandate, while saving the licensee the cost of paying to attend a CE workshop or seminar in ethics. The change lengthening the Board's substantive review time for license applications will help to keep the Board from exceeding its licensing time-frames and having to refund fees to applicants and pay penalties.

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

One change is that the citation to the definition of "medical records" has been changed from A.R.S. § 12-2291(4) to (5), since this statute reference was changed by HB 2397. R4-26-204 has been changed to include one year deadlines by which applicants must take the national psychology examination. R4-26-206 has been removed from this rulemaking due to substantive changes that have been made to it since the proposed rule was filed, and it will be re-filed at a later date. R4-26-207(B) has been further amended to add an enforcement date of May 1, 2005, for just this subsection, to give licensees notice of this new continuing education requirement and sufficient time to comply. Other minor technical and grammatical changes have been made.

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

The agency did not receive comment

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

None

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

None

14. Whether the rule was previously made as an emergency rule:

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section
R4-26-101. Definitions

ARTICLE 2. LICENSURE

Section
R4-26-204. Examinations
R4-26-205. Renewal of License
R4-26-207. Continuing Education
Table 1. Time-frames (in days) for Processing Applications
R4-26-211. Foreign Graduates

ARTICLE 3. REGULATION

Section
R4-26-308. Rehearing or Review of Decision

ARTICLE 1. GENERAL PROVISIONS

R4-26-101. Definitions

In this Chapter:

1. "Additional examination" means an examination administered by the Board to determine the competency of an applicant and may include questions about the applicant's knowledge and application of Arizona law, the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
2. "Administrative completeness review" means the Board's process for determining that an applicant has provided all of the information and documents required by the Board to determine whether to grant a license to the applicant.
3. "Advertising" means the use of any communications media to disseminate information regarding the qualifications of a psychologist or to solicit clients for psychological services, whether or not the psychologist pays for the dissemination.

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tion of the information. Methods of advertising include a published statement or announcement, directory listing, business card, personal resume, brochure, or any electronic communication conveying professional qualifications or promoting the use of the psychologist's professional services.

4. "Applicant" means an individual requesting licensure, renewal, or approval from the Board.
5. "Application packet" means the forms and documents the Board requires an applicant to submit to the Board.
6. "Case," in the context of R4-26-106(D), means a legal cause of action instituted before an administrative tribunal or in a judicial court forum.
7. "Case conference" means a meeting that includes the discussion of a particular client or case that is related to the practice of psychology.
8. "Client record" means "adequate records" as defined in A.R.S. § 32-2061(A)(2), "medical records" as defined in A.R.S. § 12-2291(4)(5), and all records pertaining to assessment, evaluation, consultation, intervention, treatment, or the provision of psychological services in any form or by any medium.
9. "Confidential record" means:
 - Minutes of an executive session of the Board;
 - A record that is classified as confidential by a statute or rule applicable to the Board;
 - An applicant's or licensee's college or university transcript if requested by a person other than the applicant or licensee;
 - All materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, ~~or~~ and any other information relating to a client's diagnosis, treatment, or personal or family life;-
 - Home address, ~~and~~ home telephone number, and e-mail address of an applicant or a licensee;
 - Test scores of an applicant or a licensee;
 - Date of birth of an applicant or a licensee; and
 - Social security ~~numbers~~ number of an applicant or a licensee.
10. "Credentialing agency" means the Association of State and Provincial Psychology Boards, the National Register of Health Service Providers in Psychology, or the American Board of Professional Psychology.
11. "Days" means calendar days.
12. "Diplomate" means a status bestowed on a person by the American Board of Professional Psychology after successful completion of the work and examinations required.
13. "Directly available," in the context of A.R.S. § 32-2071(D)(2), means immediately available in person, by telephone, or by electronic transmission.
14. "Dissertation" means a document prepared as part of a graduate doctoral program that includes, at a minimum, separate sections that:
 - Review the literature on the psychology topic being investigated, state each research question under investigation, and state each hypothesis investigated;
 - Describe the method or procedure used to investigate each research question or each hypothesis;
 - Describe and summarize the findings and results of the investigation;
 - Discuss the findings and compare them to the relevant literature presented in the literature review section; and
 - List the references used in the various sections of the dissertation, a majority of which are either ~~listed in~~ journals of the American Psychological Association, Psychological Abstracts, or classified as a psychology subject by the Library of Congress.
15. "Fellow" means a status bestowed on a person by a psychology association or society.
16. "Gross negligence" means a psychologist knows or has reason to know of facts that would lead a reasonable psychologist to realize that the psychologist's act or failure to act creates an unreasonable risk of harm and involves a high degree of probability that substantial harm may result.
17. "Internship training program" means the supervised professional experience required in A.R.S. § 32-2071(D).
18. "National examination" means the ~~national examination~~ Examination for Professional Practice in Psychology provided by the Association of State and Provincial Psychology Boards.
19. "Party" means the Board, an applicant, a licensee, or the state.
20. "Primarily psychological," in the context of A.R.S. § 32-2071(A)(6), means subject matter that covers the practice of psychology as defined in A.R.S. § 32-2061(A)(8).
21. "Psychometric testing" means measuring cognitive and emotional processes and learning.
22. "Raw test data" means information collected during a psychologist's assessment and evaluation.
23. "Residency" means the same as in A.R.S. § 32-2071(H), but does not include a domicile or hospital residency.
24. "Retired," as used in A.R.S. § 32-2073(E), means a psychologist has permanently stopped practicing psychology, as defined in A.R.S. § 32-2061(A)(8).
25. "Substantive review" means the Board's process for determining whether an applicant meets the requirements of A.R.S. § 32-2071 through § 32-2076 and this Chapter.
26. "Successfully completing," as used in A.R.S. § 32-2071(A)(4), means receiving a passing grade in a course from a

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school or institution.

27. "Supervise" means to control, oversee, and review the activities of an employee, intern, trainee, or resident who provides psychological services.
28. "Supervisor" means a psychologist licensed or certified as a psychologist in the state in which the supervision occurs.

ARTICLE 2. LICENSURE

R4-26-204. Examinations

A. General Rules ~~rules.~~

1. ~~The Board administers the national examination and may administer an additional examination.~~
- 2.1. Under A.R.S. § 32-2072(B), an applicant who fails ~~an~~ the national examination at least three times in Arizona or any other jurisdiction, shall comply with the following requirements before taking another national examination:
 - a. The applicant shall ~~meet with the Board to~~ review the areas of deficiency and ~~to develop and~~ implement a program of study ~~and or~~ practical experience designed to remedy the applicant's deficiencies. This remedial program may consist of course work, self-study, internship experience, supervision, or any combination of these.
 - b. ~~An applicant shall not submit a new license application until after completion of the remedial program described in subsection (A)(2)(a). In addition to the information required on the original application, the new application shall include documentation of all professional activities of the applicant since the date of the original application.~~
 - b. The applicant shall submit a new application that includes documentation of the applicant's professional activities since the date of the original application, in addition to the information required on the original application.
2. Examination deadline. Unless the Board grants an extension, the Board shall close the file of an applicant approved to sit for a Board examination who fails to sit for the examination within one year from the date of the Board's approval. An applicant who is approved to sit for the examination before the effective date of this section has one year from the effective date of this section in which to take the examination. An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee. Upon written request to the Board's Executive Director received by the Board on or before the applicant's examination deadline, the Board shall grant the applicant one extension of up to six months to sit for the examination.
3. ~~If an applicant who has been accepted to sit for a Board examination fails to appear at the time scheduled for the commencement of the examination or any part of the examination, the applicant is not eligible to sit for that examination.~~
- 4.3. The Board shall deny a license if an applicant commits any of the following acts:
 - a. Violates the confidentiality of examination materials;
 - b. Removes any examination materials from the examination room;
 - c. Reproduces any portion of a licensing examination;
 - d. Aids in the reproduction or reconstruction of any portion of a licensing examination;
 - e. Pays or uses another person to take a licensing examination for the applicant or to reconstruct any portion of the licensing examination;
 - f. Obtains examination material, either before, during, or after an examination, ~~or uses or purports to use any examination materials that were removed or taken from an examination~~ for the purpose of instructing or preparing applicants for examinations;
 - g. Sells, distributes, buys, receives, or has possession of any portion of a future, current, or previously administered licensing examination that is not authorized by the Board or its authorized agent for release to the public;
 - h. Communicates with any other examinee during the administration of a licensing examination;
 - i. Copies answers from another examinee or permits the copying of answers by another examinee;
 - j. Possesses during the administration of a licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than material distributed during the examination; or
 - k. Impersonates another examinee.

B. National ~~Examination~~ examination.

Under A.R.S. §§ ~~32-2063 and~~ § 32-2072, the Board shall require that an applicant take and pass ~~administer~~ the national examination. An applicant approved by the Board to take the national examination passes the examination if the applicant's score equals or exceeds the passing score recommended by the Association of State and Provincial Psychology Boards. When the Board receives the examination results, The the Board shall notify the applicant in writing of the examination results ~~when the Board receives the results from the Association of State and Provincial Psychology Boards.~~

C. Additional ~~Examination~~ examination.

1. An applicant shall pass the national examination before being permitted by the Board to take an additional examination.
2. Under A.R.S. § 32-2072(A), the Board may administer an additional examination to all applicants to determine the adequacy of the applicant's knowledge and application of Arizona law. The additional examination may also cover the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
 - a. The Board shall review and approve the additional examination before administration. The additional examina-

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tion may be developed by the Board, a committee of the Board, consultants to the Board, or independent contractors.

- b. The additional examination may be administered by the Board, a committee of the Board, consultants to the Board, or independent contractors.
- c. Applicants, examiners, and consultants to the Board shall execute a security acknowledgment form stating that they shall maintain examination security.

R4-26-205. Renewal of License

- A. The Board considers license renewal applications timely filed if delivered to the Board's office and date stamped or post-marked before May 1 of the year that the license expires.
- B. An applicant shall file with the Board ~~A~~ a renewal application form provided by the Board, signed and dated by the licensee, ~~shall that contain~~ contains:
 - 1. ~~The Applicant's~~ applicant's name, business and home addresses, social security number, license number, business and home telephone numbers, e-mail address, gender, date of birth, and a designated preference designation for directory and mailing addresses;
 - 2. Whether the applicant is currently licensed or certified as a psychologist in another jurisdiction, and if so, ~~where~~ identification of the jurisdiction;
 - 3. Whether the applicant is currently a licensed or certified member of another profession, and if so, ~~which~~ identification of the profession and where the jurisdiction;
 - 4. ~~Whether the applicant is a diplomate of the American Board of Professional Psychology, and if so, in which specialties;~~
 - 5. ~~Whether the applicant is a fellow, member, or associate of the American Psychological Association;~~
 - 6. ~~Whether the applicant is a member of other professional associations and if so, which ones;~~
 - 7-~~4~~. Whether the applicant is a member of any hospital staff or provider panel and if so, ~~which ones~~ identification of the hospital or panel;
 - 8-~~5~~. Whether the applicant has completed the required 60 hours of continuing education; ~~and if not, an explanation of the reasons;~~
 - 9-~~6~~. Whether the applicant has been denied a license or certificate to practice any profession by any state or Canadian province;
 - 10-~~7~~. Whether the applicant has ever relinquished responsibilities, resigned a position, or been fired while a complaint was ~~pending being investigated or adjudicated~~ against the applicant;
 - 11-~~8~~. Whether the applicant has ever resigned or been terminated from a professional organization, hospital staff, or provider panel or surrendered a license while a complaint against the applicant was being investigated or adjudicated;
 - 12-~~9~~. Whether the applicant has been disciplined by any agency or regulatory board of ~~a state or Canadian province, or by any professional organization, any jurisdiction, hospital staff health care institution, or provider panel or ethics panel~~ for acts pertaining to the applicant's conduct as a psychologist or as a professional in any other field, and if so, a report of those actions including the name and address of the disciplinary agency, the nature of the action, and a statement of the charges and findings;
 - 13-~~10~~. Whether the applicant has been convicted of a felony or a misdemeanor other than a minor traffic offense in any state or country;
 - 14-~~11~~. Whether the applicant is currently under investigation by any professional organization, hospital staff health care institution, or provider panel of which the applicant is a member or on staff, or ~~governmental~~ regulatory board or agency concerning the ethical propriety or ~~legal propriety~~ legality of the applicant's conduct;
 - 15-~~12~~. Whether the applicant has been sued or charged in civil or criminal court for an act relating ~~pertaining~~ to the applicant's practice as a psychologist, the applicant's work under a license or certificate in another profession, or the applicant's work as a member of a particular profession;
 - 16-~~13~~. Whether the applicant is delinquent in payment of a judgment for child support;
 - 17-~~14~~. Whether the applicant has had an application for membership to any professional organization rejected, or has had any professional organization, ~~ethics committee, or health care institution~~ suspend or revoke the applicant's membership, or placed place the applicant on probation, or otherwise ~~ensured~~ censure the applicant for unethical or unprofessional conduct or other violation of eligibility or membership requirements;
 - 18-~~15~~. Whether the applicant has ~~any~~ a condition that in any way impairs or limits the applicant's ability to ~~practice psychology~~ practice psychology safely and effectively ~~in Arizona~~ practice psychology;
 - 19-~~16~~. Whether the applicant is requesting any of the following inactive status options:
 - a. Mental or physical disability,
 - b. Voluntary inactive status,
 - c. Retirement, or
 - d. Medical or inactive continuation;
 - 20-~~17~~. Whether the applicant is requesting expired status;
 - 21-~~18~~. A signed attestation of the veracity of the information provided; and

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~~22-19.~~ Any other information authorized by statute.

- C. A licensee who applies for renewal in a timely manner, but fails to complete the required 60 hours of continuing education, may reinstate ~~an~~ the expired license and continue practicing between May 1 and July 1 by paying a by July 1 the reinstatement fee in R4-26-108, in addition to the regular renewal fee, under A.R.S. § 32-2074(B). The licensee shall complete the continuing education requirements by July 1 of the same year.
- ~~D.~~ A licensee who fails to complete the required 60 hours of continuing education by July 1 and reinstate a license under subsection (C) may have from July 1 of the renewal year to May 1 of the next year to complete the continuing education requirements by paying an additional delinquent compliance fee.
- ~~D.~~ A person who fails to complete the required 60 hours of continuing education by July 1 and reinstate a license under subsection (C):
 - a. Shall not practice psychology until the license is reinstated;
 - b. Has from July 1 of the renewal year to May 1 of the next year to complete the continuing education requirements; and
 - c. Shall pay the reinstatement fee and the delinquent compliance fee in R4-26-108.
- E. If as a result of an audit of continuing education records, the Board disallows some or all of a licensee's credit hours for failure to conform to the standards listed in R4-26-207, and the remaining hours are less than the number required, the Board shall deem the licensee as failing to satisfy the continuing education requirements. The licensee ~~shall have~~ has 90 days from the mailing date of the Board's notification of disallowance to complete the continuing education requirements for the past reporting period and, ~~upon completion~~ upon completion shall provide the Board with an affidavit documenting ~~how the disallowance has been cured~~ completion. If the Board does not receive an affidavit of ~~cure~~ cure within 90 days of the mailing date of notification of disallowance, or the Board deems the affidavit insufficient, the Board may ~~proceed to~~ take disciplinary action under A.R.S. § 32-2081.

R4-26-207. Continuing Education

- A. A licensee shall complete a minimum of 60 hours of continuing education during each two-year license renewal period. One clock hour of instruction, training, preparation of a published book or journal article, or making a presentation equals one hour of continuing education credit.
 - ~~1.~~ A psychologist licensed for less than two years shall earn continuing education credit based on the number of weeks remaining between the date of the psychologist's licensure and May 1 of the next renewal year.
 - ~~2.~~ Continuing education hours are prorated from the date of the Board correspondence notifying an applicant of approval for licensure. To calculate the number of continuing education hours that a new licensee must obtain:
 - a. ~~Count the number of weeks between the week following the date of new licensure notification and May 1 of the next renewal year;~~
 - b. ~~Divide the number of weeks by 104, the total number of weeks in the renewal period; and~~
 - e. ~~Multiply that number by 60, the total number of continuing education hours required.~~
 - ~~1.~~ Continuing education hours are prorated from the date of the Board correspondence notifying an applicant of approval for licensure. To calculate the minimum number of continuing education hours that a new licensee must obtain, the Board shall divide the 60 hours of continuing education required by 24 and multiply that amount by the number of months that remain until the next biennial renewal date.
 - ~~3-2.~~ The Board uses ~~The~~ the same method specified in subsection (A)(2)(1) is used to calculate the minimum number of continuing education hours required in each of the categories listed in subsection (B) (C). Calculations that result in a fractional number are rounded to the next largest whole number.
- ~~B.~~ During the two-year license period, a licensee shall obtain a minimum of 40 hours from Category I as described in subsection (B)(1). A licensee shall obtain a minimum of four of the 40 hours in professional ethics as described in subsection (B)(1)(a). The other 20 required continuing education hours may be from Category I or Category II.
 - ~~1.~~ Category I consists of:
 - a. ~~Post-doctoral study sponsored by a regionally accredited university or college as listed in A.R.S. § 32-2071(A)(1), that provides a graduate-level degree program, or a course, seminar, workshop, or home study with certificate of completion, or a continuing education program offered by a national, international, regional, or state association, society, board, or continuing education provider, if:~~
 - i. ~~At least 75% of the program is related to the "practice of psychology" as defined in A.R.S. § 32-2061(A)(8); and~~
 - ii. ~~The program's instructor meets the qualifications stated in subsection (C);~~
 - b. ~~Attending a Board meeting. A licensee shall receive four continuing education hours for attending a full-day Board meeting and two continuing education hours for attending a half-day Board meeting. A licensee shall complete documentation provided by the Board at the time the licensee attends a Board meeting. The Board shall not accept more than 10 continuing education hours obtained by attending a Board meeting from a licensee for each renewal period; and~~
 - e. ~~Serving as a complaint consultant. A licensee who serves as a Board complaint consultant may receive continuing education hours equal to the actual number of hours served as a complaint consultant up to a maximum of 20~~

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~~continuing education hours per renewal period.~~

2. ~~Category II consists of:~~
- a. ~~Self study or study groups for professional growth and development as a psychologist;~~
 - b. ~~Publication of authored or co-authored psychology books, psychology book chapters, or articles in peer-reviewed psychology journals;~~
 - e. ~~Presentation of symposia or papers at a state, regional, national, or international psychology meeting;~~
 - d. ~~Attendance at or participation in case conferences; or~~
 - e. ~~Courses, workshops, seminars, or symposia for professional growth and development as a psychologist or enhancement of psychological practice, education or administration.~~

B. A licensee shall obtain a minimum of eight of the 40 hours required under Category I in subsection (C) as follows:

- 1. At least four hours in professional ethics; and
- 2. Beginning May 1, 2005, at least four hours in domestic violence or child abuse;

C. During the two-year license period, a licensee shall obtain a minimum of 40 hours from Category I. The remaining 20 required continuing education hours may be from Category I or Category II.

- 1. Category I consists of:
 - a. Post-doctoral study sponsored by a regionally accredited university or college as listed in A.R.S. § 32-2071(A)(1), that provides a graduate-level degree program, or a course, seminar, workshop, or home study with certificate of completion, or a continuing education program offered by a national, international, regional, or state association, society, board, or continuing education provider, if:
 - i. At least 75% of the program is related to the "practice of psychology" as defined in A.R.S. § 32-2061(A)(8); and
 - ii. The program's instructor meets the qualifications in subsection (D);
 - b. Attending a Board meeting. A licensee receives four continuing education hours in professional ethics as required under subsection (B)(1) for attending eight hours or more of a Board meeting and two continuing education hours for attending between four and eight hours of a Board meeting. A licensee shall complete documentation provided by the Board at the time the licensee attends a Board meeting. The Board shall not accept more than 10 continuing education hours obtained by attending a Board meeting from a licensee for each renewal period; and
 - c. Serving as a complaint consultant. A licensee who serves as a Board complaint consultant to review Board complaints and provide a written report to the Board, receives continuing education hours equal to the actual number of hours served as a complaint consultant up to a maximum of 20 hours per renewal period.
- 2. Category II consists of:
 - a. Self-study or study groups for professional growth and development as a psychologist;
 - b. Preparation that results in publication of an authored or co-authored psychology book, psychology book chapter, or article in a peer-reviewed psychology journal;
 - c. Presentation of a symposium or paper at a state, regional, national, or international psychology meeting;
 - d. Attendance at or participation in a case conference; or
 - e. A course, workshop, seminar, or symposium for professional growth and development as a psychologist or enhancement of psychological practice, education, or administration.

C.D. The Board shall not approve continuing education for credit unless the continuing education instructor:

- 1. Is currently licensed or certified in the instructor's profession or works at least 20 hours each week as a faculty member at a regionally accredited college or university, as listed in A.R.S. § 32-2071(A);
- 2. Is a fellow as defined in R4-26-101 or a diplomate as defined in R4-26-101; or
- 3. Demonstrates competence and expertise in the subject or material the instructor teaches by having an advanced degree, teaching experience, work history, authored professional publication articles, or having previously presented seminars in that subject or material.

D.E. A licensee who organizes and presents a continuing education activity ~~shall receive~~ receives the same number and category of continuing education hours described in subsection ~~(B)~~ (C) as those persons attending the continuing education activity. The Board shall not allow credit more than once in a two-year license renewal period for organizing and presenting a continuing education function on the same topic or content area.

E.F. A licensee elected to an officer position in an international, national, regional, or state psychological association or society, or appointed to a government psychology board or committee, ~~shall receive~~ receives 10 Category I continuing education hours equal to the actual number of hours served in the position up to a maximum of 10 hours per renewal period.

F.G. Each licensee shall keep the following documents that substantiate completion of continuing education hours for the ~~two~~ previous ~~consecutive~~ license renewal ~~periods~~ period:

- 1. A certificate of attendance;
- 2. Statement signed by the provider verifying participation in the activity;
- 3. Official transcript;
- 4. Documents indicating a licensee's participation as an elected officer or appointed member as specified in subsection

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~~(E)~~ (F); or

5. A signed affidavit to document self-study activity that includes a description of the activity, the subject covered, the dates, and the number of hours involved.

G.H. The Board may audit a licensee's compliance with continuing education requirements. The Board may deny renewal or take other disciplinary action against a licensee who fails to obtain or document required continuing education hours. The Board may discipline a licensee who commits fraud, deceit, or misrepresentation regarding continuing education hours.

H.I. A licensee who cannot meet the continuing education requirement for good cause may seek an extension of time to complete the continuing education requirement by submitting a written request to the Board, including the renewal fee.

1. Good cause is limited to licensee illness, military service, or residence in a foreign country for at least 12 months of the license renewal period.
2. A licensee shall submit a request for extension on or before the expiration of a license. The Board shall not grant a time extension longer than one year.
3. A licensee who cannot complete the continuing education requirement within the time extension may apply to the Board for inactive license status under A.R.S. § 32-2073(E).

I.J. The Board shall not allow continuing education hours in excess of the 60 required hours to be carried beyond the two-year renewal period in which ~~they~~ the hours were accrued.

J.K. ~~A Courses course, workshops workshop, seminars seminar, or symposia symposium~~ designed to increase income or office efficiency ~~are~~ is not eligible for continuing education hours.

Table 1. Time-frames (in days) for Processing Applications

Type of Time-frame	Statutory or Rule Authority	Administrative Completeness Time-frame	Time to Respond to Notice of Deficiency	Substantive Review Time-frame	Time to Respond to Request for Additional Information	Overall Time-frame
Approval or denial to take the national examination	A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204	30	240	60 <u>90</u>	240	90 <u>120</u>
Approval or denial of application for licensure by examination waiver	A.R.S. §§ 32-2071, 32-2071.01, 32-2072(C)(1)	30	240	60 <u>90</u>	240	90 <u>120</u>
Approval or denial of application for licensure by credential	A.R.S. §§ 32-2071.01, 32-2072; and A.A.C. R4-26-203.01	30	240	60 <u>90</u>	240	90 <u>120</u>
Approval or denial to take additional examination	A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204	30	240	60 <u>90</u>	240	90 <u>120</u>
Approval or denial of application for renewal of license	A.R.S. § 32-2074; A.A.C. R4-26-205	60	N/A	90	N/A	150
Approval or denial of application for reinstatement of expired license	A.R.S. § 32-2074; A.A.C. R4-26-206	60	N/A	90	N/A	150

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Approval or denial of extension for continuing education requirement	A.R.S. § 32-2074 A.A.C. R4-26-207	60	N/A	90	N/A	150
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R4-26-211. Foreign Graduates

- A. Under A.R.S. § 32-2071(B), an applicant for licensure whose application is based on graduation from a foreign institution of higher education shall provide the Board with documents and evidence to establish that the applicant’s formal education is equivalent to a doctoral degree in psychology from a regionally accredited institution as described in A.R.S. § 32-2071(A).
- B. An applicant shall provide the following information to the Board:
 1. An original and a copy of the doctoral diploma or certificate of graduation. The original shall be returned, and the copy shall be retained by the Board;
 2. An official transcript or comparable document recording all course work completed, containing an original university seal ~~or comparable document recording all course work completed~~;
 3. A certified English translation of all documents submitted;
 4. Evidence of completion of the requirements of A.R.S. § 32-2071(C), (D), and (E); and
 5. Evidence that the doctoral dissertation or project was primarily psychological. The Board may require the applicant to submit the doctoral dissertation or project.
 6. ~~A statement prepared by the applicant, based upon the documents referred to in this Section, indicating the chronological sequence of studies and research. The format of this statement shall be comparable to a transcript issued by United States universities.~~

ARTICLE 3. REGULATION

R4-26-308. Rehearing or Review of Decision

- A. Except as provided in subsection (G), any party in a contested case or appealable agency action before the Board who is aggrieved by a Board order or decision rendered in ~~such the~~ case 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 rehearing or review. For purposes of this subsection, ~~a Board order or decision is served when personally delivered or mailed by certified mail to the party at the party’s last known residence or place of business~~ service is complete on personal service or five days after the date that a Board order or decision is mailed to the party’s last known address.
- B. A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A party may file a response ~~may be filed~~ within 15 days after service of ~~such the~~ motion or amended motion by any other party. The Board may require written briefs upon the issues raised in the motion and may provide for oral argument. A party who files pleadings or other documents with the Board shall file an original and 11 3-hole punched copies.
- C. A The Board may grant rehearing or review of a Board order or decision ~~may be granted~~ for any of the following causes materially affecting the moving party’s rights:
 1. An irregularity in the administrative proceedings of the agency, its hearing officer, 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, its hearing officer, or the prevailing party;
 3. An accident or surprise that could not be prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence be discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. An error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the case; or
 7. A Board order or decision that is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify a Board order or decision or grant a rehearing or review 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 or review shall specify the grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters ~~so~~ specified.
- E. Not later than 30 days after a Board order or decision is rendered, the Board may on its own initiative order a rehearing or review of its order or decision for any reason specified 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 or review for a reason not stated in the motion. ~~In either case the order granting such a rehearing or review shall specify the grounds for rehearing or review.~~
- F. When a motion for rehearing or review is based upon affidavits, ~~they shall be served~~ the party shall serve the affidavits

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with the motion. An opposing party may, within 15 days after such service, serve opposing affidavits. The Board for good cause or by written agreement of all parties may extend for not more than 20 days the period for service of opposing affidavits. Reply affidavits may be are permitted.

- G. If the Board finds that the immediate effectiveness of a Board order or decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the Board order or decision is impracticable, unnecessary, or contrary to the public interest, the Board order or decision may be issued as a final order or decision without an opportunity for a rehearing or review. If a Board order or decision is issued as a final order or decision without an opportunity for rehearing or review, any application for judicial review of the order or decision shall be made within the time permitted for final orders or decisions.
- H. For purposes of this Section, "contested case" is defined as ~~provided~~ in A.R.S. § 41-1001 and "appealable agency action" is defined in A.R.S. § 41-1092.
- I. ~~To the extent that the provisions of this Section are in conflict with the provisions of any statute providing for rehearing or review of orders or decisions of the Board, such statutory provisions shall govern.~~

NOTICE OF FINAL RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY
CONCEALED WEAPON PERMITS

PREAMBLE

1. Sections Affected

Rulemaking Action

R13-9-101	Amend
R13-9-102	Repeal
R13-9-102	New Section
R13-9-103	Repeal
R13-9-103	New Section
R13-9-104	Repeal
R13-9-104	New Section
R13-9-105	Repeal
R13-9-106	Repeal
R13-9-107	Repeal
R13-9-108	Repeal
R13-9-109	Repeal
R13-9-110	Repeal
R13-9-111	Repeal
R13-9-112	Repeal
R13-9-113	Repeal
Article 2	New Article
R13-9-201	New Section
R13-9-202	New Section
R13-9-203	New Section
R13-9-204	New Section
R13-9-205	New Section
R13-9-206	New Section
R13-9-207	New Section
R13-9-208	New Section
Article 3	New Article
R13-9-301	New Section
R13-9-302	New Section
R13-9-303	New Section
R13-9-304	New Section
R13-9-305	New Section
R13-9-306	New Section
R13-9-307	New Section
R13-9-308	New Section
R13-9-309	New Section
Article 4	New Article
R13-9-401	New Section
R13-9-402	New Section

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

Authorizing statute: A.R.S. § 13-3112(S)

Implementing statutes: A.R.S. §§ 13-3112 and 41-1072

3. The effective date of the rules:

January 1, 2005

4. A list of all previous notices published in the Arizona Administrative Register:

Notice of Rulemaking Docket Opening: 10 A.A.R. 322, January 23, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 2303, June 11, 2004

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

Name: Lieutenant Laurence Burns
Licensing and Regulatory Bureau Commander

Address: P.O. Box 6488
Mail Drop 1170
Phoenix, AZ 85005-6488

Telephone: (602) 223-2387

Fax: (602) 223-2928

E-mail: lburns@dps.state.az.us

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

This rule making is authorized by A.R.S. § 13-3112(S). The rules provide detailed regulatory information and procedural instructions that implement and administer the Concealed Weapons Permit program. The rules are used by the Department of Public Safety personnel, applicants for concealed-carry permits, and concealed-carry training organizations and instructors to provide regulation and guidance.

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

None

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

Not applicable

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

These rules impact individuals who choose to obtain a permit to carry a concealed weapon in Arizona. The increase in fees represented by these changes to the rules will place an additional \$15.00 burden on individuals who obtain a Carry Concealed Weapon permit. The current fees were set at the inception of the Carry Concealed Weapon program in 1994, and do not allow the unit to meet inflationary and technological improvement costs to continue the program. These rules will affect small businesses that provide instruction to permit holders. There is no indication from the carry concealed weapon training industry that the rule changes will have a negative impact on the industry.

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

Not applicable

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

Comment from a member of the Arizona State Rifle and Pistol Association concerning **Rule 13-9-309, Section 5, Firearms-Safety Instructor Registration Renewal**. Concern for citizens who live in "outlying smaller regions, smaller districts of the state... where there are people who want CCW permits but may not be able to find an instructor and they may not be able to have eight classes done in four years of the minimum of two people each."

The Department responded that "if they haven't taught eight classes in that four-year time period, that then they could still reapply as a new instructor if they wish to continue to instruct and what that requires then is that they take a class again and meet the basic requirements to be an instructor." "Otherwise, without that requirement, then they would possibly not instruct for a four-year time period, ... and we find it is too long not to keep current on what the current instruction is."

Another concern from the same member of the Arizona State Rifle and Pistol Association was **Rule 13-9-308, Section A, Subsection 5B** that a "Certificate of appointment or the certification card issued by the National Rifle Association," should have the word "current" preceding the word "Certificate."

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The Department decided that the intent is that “the person would have a current certification” so this will be amended to read “current Certificate of appointment...” All sections pertaining to certification from the National Rifle Association will have the word “current” preceding certification or certificate from the National Rifle Association.

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

None

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

“Classifiable fingerprints,” Form FD-258 (Rev. 5-11-99) U.S. Government Printing Office: 2004-304-373/80029, was incorporated by reference, and located in R13-2-101. Form U.S. GPO:2004-304-373/80029 is attached.

14. Was the rule previously made an emergency rule?

No

15. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

**CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY
CONCEALED WEAPON PERMITS**

ARTICLE 1. GENERAL PROVISIONS

Section

- R13-9-101. Definitions
- R13-9-102. ~~Application Forms~~ Application and Processing Fees
- R13-9-103. ~~Application and Processing Fees~~ Application Forms
- R13-9-104. ~~Application for an Initial Concealed Weapon Permit~~ Time-frames for Making Permit and Instructor-approval Determinations
- R13-9-105. ~~Review and Processing by the Department~~ Repealed
- R13-9-106. ~~Permit Issuance~~ Repealed
- R13-9-107. ~~Permittee Obligations~~ Repealed
- R13-9-108. ~~Permit Renewal~~ Repealed
- R13-9-109. ~~Firearms safety Instructor Approval~~ Repealed
- R13-9-110. ~~Firearms safety Training Program Approval~~ Repealed
- R13-9-111. ~~Suspension or Revocation~~ Repealed
- R13-9-112. ~~Reconsideration, Request for Hearing~~ Repealed
- R13-9-113. ~~Hearing~~ Repealed

ARTICLE 2. CONCEALED WEAPON PERMIT

Section

- R13-9-201. Concealed Weapons Permit Eligibility
- R13-9-202. Application for a Concealed Weapon Permit
- R13-9-203. Permit Issuance
- R13-9-204. Renewal of Concealed Weapon Permit
- R13-9-205. Permittee Obligations
- R13-9-206. Lost, Stolen, or Damaged Concealed Weapon Permit
- R13-9-207. Change of Address
- R13-9-208. Change in Name of Permittee

ARTICLE 3. FIREARMS-SAFETY TRAINING PROGRAM

Section

- R13-9-301. General Requirements for Firearms-safety Training Program
- R13-9-302. Application for Firearms-safety Training Program Approval
- R13-9-303. Time-frames for Firearms-safety Training Program Approval
- R13-9-304. Requesting Department Assistance with Program Development
- R13-9-305. Firearms-safety Training Organization Obligations
- R13-9-306. Refresher Firearms-safety Training Program
- R13-9-307. Firearms-safety Instructors
- R13-9-308. Application for Registration of Firearms-safety Instructor

R13-9-309. Firearms-safety Instructor Registration Renewal

ARTICLE 4. HEARINGS AND DISCIPLINARY PROCEEDINGS

Section

R13-9-401. Suspension and Revocation

R13-9-402. Reconsideration, Request for Hearing

ARTICLE 1. GENERAL PROVISIONS

R13-9-101. Definitions

In this Chapter, unless otherwise specified:

1. “Administrative completeness review time-frame” has the same meaning as in A.R.S. § 41-1072.
- ~~1-2.~~ “Applicant” means an individual or organization that submits a completed application form and the required fee to the Department to obtain a permit to carry a concealed weapon, to renew a permit, to be approved as a firearms safety instructor, or to have a firearms safety training program approved. for:
 - a. A permit.
 - b. Renewal of a permit.
 - c. Firearms-safety instructor registration.
 - d. Renewal of firearms-safety instructor registration, or
 - e. Firearms-safety training program approval.
3. “Classifiable fingerprints” means fingerprint impressions that meet the criteria of the Federal Bureau of Investigations (FBI), Form FD-258 (Rev. 5-11-99) U.S. Government General Printing Office: 2004-304-373-80029, incorporated by reference, available from the Department and the FBI (Attention: Logistical Support Unit (LSU), CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306). This incorporation contains no future editions or amendments.
4. “Completion certification” means the firearms-safety training program completion certification on the Arizona concealed weapon application form.
- ~~2-5.~~ “Department” means the Arizona Department of Public Safety.
- ~~3-6.~~ “Director” means the Director of the Arizona Department of Public Safety.
- ~~4-7.~~ “Firearm” has the same meaning as in A.R.S. § 13-3101.
- ~~5-8.~~ “Firearms-safety instructor” means an individual a person who has obtained approval is registered under R13-9-109 this Chapter to conduct initial and refresher firearms-safety training programs in this state.
9. “Firearms-safety instructor training program” means a required course of instruction provided by the Department that is intended to prepare a person to conduct a refresher firearms-safety training program.
- ~~6-10.~~ “Firearms-safety training program” means an initial course of instruction in the safe and lawful use of a firearm that meets the requirements of A.R.S. § 13-3112(N) and is taught in this state.
- ~~7-11.~~ “Honorably retired peace officer” means a person who voluntarily separates from a law enforcement agency after 10 or more years of service, who did not separate to avoid disciplinary action or termination for cause; and, who receives a medical, disability, or regular retirement pension or annuity as a result of qualifying years of service as a peace officer, and who has or can obtain a letter from the employer law enforcement agency confirming these facts.
12. “Live ammunition” means a cartridge consisting of a cartridge case, primer, propellant powder, and a single metallic projectile, no less than 30 grain, and with a velocity more than 500 feet per second when fired. Live ammunition does not include simulated, frangible, marking, or rubber projectile ammunition.
- ~~8-13.~~ “Organization” means a person or an entity legally established pursuant to under federal, state, city, or county requirements and authorized to conduct business in Arizona this state and which that seeks or has obtained the Department’s approval of its a firearms-safety training program.
- ~~9-14.~~ “Original application” means any of the forms referenced in R13-9-102(A) this Chapter that are not copies and that contain an original signature of the applicant.
- ~~10-15.~~ “Peace officer” has the same meaning as in A.R.S. § 13-105.
- ~~11-16.~~ “Permit” means an identification card issued by the Department that authorizes the named holder to carry a concealed weapon subject to the requirements of A.R.S. § 13-3112 and this Article this Chapter.
- ~~12-17.~~ “Permittee” means an individual who has qualified for and been issued a permit by the Department a Department-issued permit to carry a concealed weapon.
18. “Prohibited possessor” means a person who is defined as a prohibited possessor under A.R.S. § 13-3101(6) and any person to whom it would be unlawful to sell or otherwise dispose of a firearm under 18 U.S.C. § 922(d).
- ~~13-19.~~ “Refresher firearms-safety training program” means a 4-four-hour course of instruction in the safe and lawful use of a firearm pursuant to under A.R.S. § 13-3112(L) that is taught in this state.
- ~~14-20.~~ “Resident” has the same meaning as in A.R.S. § 28-2001 means a person who has lived in Arizona for 6 months immediately before the date of application for a concealed weapon permit and who remains in Arizona for a total of 6 months or more during each calendar year, or a member of the armed forces who has been stationed in Arizona for the

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~~30 days immediately before the date of application for a concealed weapon permit.~~

~~21. "Responsible party" means a person who is an approved firearms-safety instructor and is responsible for administration of an organization's firearms-safety training program.~~

~~15-22. "Satisfactorily completed" means obtaining a test score of 70% or more on both the written test and the live ammunition course of fire test, attending an approved firearms-safety training program of at least 16 hours, an approved refresher firearms-safety training program of at least four hours, or a firearms-safety instructor training program of at least eight hours, and:~~

~~a. Obtaining a score of 100 percent on the training program's initial written test, or a score of 70 percent or greater on the initial written test with a score of 100 percent on a retest; and,~~

~~b. A minimum score of 70 percent on the live ammunition qualification test. The live ammunition qualification test shall consist of a minimum of five shots at five yards and five shots at 10 yards that impact within the secondary scoring ring, using a National Rifle Association TQ15 target or a target with an equivalent secondary scoring ring. Rounds impacting outside of the secondary scoring ring are not counted as hits.~~

~~23. "Substantive review time-frame" has the same meaning as in A.R.S. § 41-1072.~~

~~16-24. "Weapon" includes the term "firearm" has the same meaning as deadly weapon as defined in A.R.S. § 13-3101.~~

R13-9-102. Application Forms Application and Processing Fees

~~A. The Department shall provide application forms for:~~

- ~~1. An initial concealed weapon permit and renewal of the permit,~~
- ~~2. Approval to be a firearms-safety instructor, and~~
- ~~3. Approval of an organization's firearms-safety training program.~~

~~B. Application forms may be obtained from the Department, Handgun Clearance and Permit Section, 2102 West Encanto Boulevard, P.O. Box 6638, Phoenix, Arizona 85005-6638. Upon request, the Department shall advise individuals or organizations of other locations where application forms may be obtained.~~

~~C. An application shall be submitted only on a form provided by the Department.~~

~~A. The Department shall collect the following fees:~~

- ~~1. New permit - \$43,~~
- ~~2. Renewal permit - \$43,~~
- ~~3. Replacing a lost, stolen or damaged permit - \$10,~~
- ~~4. Name change on a permit - \$10.~~

~~B. In addition to the fees in subsections (A)(1) and (A)(2), the Department shall collect a fee in an amount necessary to cover the cost of federal and state fingerprint processing for criminal history record information checks.~~

~~C. An applicant or permittee shall submit the required fees. All cashier's checks, certified checks, or money orders shall be made payable to the Arizona Department of Public Safety. The Department does not accept credit cards or personal checks. All fees are non-refundable except if A.R.S. § 41-1077 applies.~~

R13-9-103. Application and Processing Fees Application Forms

~~A. The Department shall collect the following fees:~~

- ~~1. New permit - \$26,~~
- ~~2. Renewal permit - \$26,~~
- ~~3. Replacing a lost or stolen permit - \$20,~~
- ~~4. Name change on a permit - \$20,~~
- ~~5. Approval to be a firearms-safety instructor - \$50,~~
- ~~6. Combined firearms-safety instructor approval and a permit - \$76.~~

~~B. In addition to the fees in subsections (A)(1), (2), (5), and (6), the Department shall collect a fee in an amount necessary to cover the cost of federal noncriminal justice fingerprint processing for criminal history record information checks as provided by A.R.S. § 41-1750(J).~~

~~C. An applicant or permittee shall submit the required fee in the form of a cashier's check, certified check, or money order made payable to the Department of Public Safety. All fees are nonrefundable.~~

~~A. The Department shall provide and an applicant shall use application forms for:~~

- ~~1. An initial concealed weapon permit and renewal of the permit,~~
- ~~2. A firearms-safety instructor registration and renewal of the registration, and~~
- ~~3. Approval of an organization's firearms-safety training program.~~

~~B. Application forms may be obtained from the Department, Concealed Weapon Permit Unit. Upon request, the Department shall advise individuals or organizations of other locations where application forms may be obtained.~~

R13-9-104. Application for an Initial Concealed Weapon Permit Time-frames for Making Permit and Instructor-approval Determinations

~~A. An applicant for an initial concealed weapon permit shall place a checkmark in the "New Permit Application" box on the Department's application form.~~

~~B. An applicant shall enter the following information in the spaces provided on the form:~~

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1. ~~Legal name as it shall appear on the permit;~~
 2. ~~County of residence and residence address, including zip code, or descriptive location of residence if an address has not been assigned;~~
 3. ~~Mailing address if different from residence address;~~
 4. ~~Social security number;~~
 5. ~~Driver's license number and state of issuance;~~
 6. ~~Home and business telephone numbers; and~~
 7. ~~Origin or race, sex, height, weight, eye color, hair color, date of birth, and place of birth.~~
- C.** ~~An applicant for a concealed weapon permit shall answer "yes" or "no" to the following questions on the application:~~
1. ~~Are you lawfully present in the United States?~~
 2. ~~Are you a resident of Arizona?~~
 3. ~~Are you at least 21 years of age?~~
 4. ~~Have you satisfactorily completed the required firearms safety training program?~~
 5. ~~Are you currently under indictment for, or have you been convicted of, any felony in the United States or any other country?~~
 6. ~~Do you suffer from mental illness or have you been adjudicated as mentally incompetent, or have you been committed to a mental institution?~~
 7. ~~Are you requesting a concealed weapon permit concurrently with an application for approval to be a firearms safety instructor?~~
 8. ~~Are you an honorably retired federal, state, or local peace officer with a minimum of 10 years of service?~~
- D.** ~~An applicant shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the applicant's original signature in the space provided at the bottom of the form.~~
- E.** ~~Except for an applicant exempted by A.R.S. § 13-3112(E)(6), an applicant shall obtain the signature of a firearms safety instructor in the space provided at the end of the application, certifying that the applicant satisfactorily completed the initial firearms safety training program on the date specified.~~
- F.** ~~The firearms safety instructor's certification shall include:~~
1. ~~The Department assigned number of the firearms safety training program;~~
 2. ~~The Department assigned number of the firearms safety instructor;~~
 3. ~~The Department assigned number of the training organization;~~
 4. ~~A seal or stamp affixed to the form identifying the training organization; and~~
 5. ~~The date the applicant satisfactorily completes the program.~~
- G.** ~~A certificate of completion of a firearms safety training program shall remain valid for 6 months after the applicant satisfactorily completes the training.~~
- H.** ~~An applicant shall submit to the Department the original application form, a completed fingerprint card with prints of sufficient quality to enable them to be classified, and the fees specified in R13-9-103.~~
- A.** For a concealed weapon permit and renewal or firearms safety instructor registration and renewal, the overall time-frame required by A.R.S. § 41-1073 is 60 days, which includes:
1. 14 days for administrative completeness review; and
 2. 46 days for substantive review.
- B.** An application is administratively complete if it contains all the information and documents listed in:
1. R13-9-202 for application for a concealed weapon permit or renewal of a concealed weapon permit,
 2. R13-9-308 for application for firearms safety instructor registration, or
 3. R13-9-309 for application for renewal of firearms safety instructor registration.
- C.** The administrative completeness review time-frame begins on the date the Department receives an application.
1. If the application is not administratively complete when received, the Department shall send a notice of deficiency to the applicant. The deficiency notice shall state the documents and information needed to complete the application.
 2. Within 40 days from the postmark date of the deficiency notice, the applicant shall submit to the Department the missing documents and information. The time-frame for the Department to finish the administrative completeness review is suspended from the postmark date of the deficiency notice until the date the Department receives the missing documents and information.
 3. If the applicant fails to provide the missing documents and information within the time allowed, the Department shall deny the application and close the applicant's file. An applicant who is denied may follow the procedures in R13-9-402.
 4. If the application is administratively complete, the Department shall begin the substantive review of the application.
- D.** The substantive review time-frame begins immediately after the administrative review is complete.
1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information.
 2. The applicant shall submit to the Department the additional information identified in the request for additional information within 20 days from the postmark date of the request. The time-frame for the Department to finish the sub-

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stantive review of the application is suspended from the postmark date of the request for additional information until the Department receives the additional information.

3. If the applicant fails to provide the information within the time allowed, the Department shall deny the application and close the applicant's file. An applicant who is denied may follow the procedures in R13-9-402.
 4. When the substantive review is complete, the Department shall inform the applicant in writing of its decision.
 - a. The Department shall deny instructor registration if the Department determines that the applicant does not meet all criteria for approval required by A.R.S. § 13-3112(E) and R13-9-307. An applicant who is denied registration as an instructor may appeal the Department's decision under A.R.S. § 41-1092 et seq.
 - b. The Department shall deny the issuance of a permit if the Department determines that the applicant does not meet all criteria for issuance of the permit required by A.R.S. § 13-3112(E) and R13-9-201. An applicant who is denied a permit may appeal under A.R.S. § 41-1092 et seq.
 - c. The Department shall grant instructor registration or issue a permit if it determines that the applicant meets all substantive criteria for instructor registration or issuance of a permit required by A.R.S. § 13-3112 (E) and R13-9-201 or R13-9-307.
- E. If a concealed weapon permit or a firearms-safety instructor registration is issued under subsection (D), and the Department subsequently determines that the permittee fails to meet requirements under A.R.S. § 13-3112(E) or this Chapter, the Department shall suspend the permit or registration and under A.R.S. § 13-3112(M) provide a written explanation to the permittee stating the reasons why the permit or registration is suspended.

R13-9-105. Review and Processing by the Department Repealed

- ~~A. The Department shall review the application to verify that the applicant has submitted the required forms, information, and fees, and that the certificate of completion has not expired. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and this Article. Within 10 business days of receipt, the Department shall return an incomplete, illegible, or non-original application, or an application with an expired certificate of completion. With the return of an application, the Department shall include a written description of the deficiencies to be corrected.~~
- ~~B. Within 20 calendar days of receiving a completed application, the Department shall conduct a state criminal history check and request a national criminal history check of the applicant.~~
- ~~C. The Department may contact the applicant by telephone or by mail if clarification or further information is needed to determine eligibility. If the applicant provides the requested information within 40 calendar days from the date of the request, the Department shall complete its determination of eligibility. If the applicant fails to provide the requested information within 40 calendar days, the Department shall deny the application and return it to the applicant with a written explanation.~~
- ~~D. The Department shall not issue a concealed weapon permit to any person who has been convicted of a felony, even if the person's civil rights have been restored and the conviction expunged, set aside, or vacated. If a permit is denied, the Department shall notify the applicant in writing in accordance with A.R.S. § 13-3112(H).~~

R13-9-106. Permit Issuance Repealed

- ~~A. When an applicant has satisfied the requirements of A.R.S. § 13-3112 and this Article, the Department shall issue a concealed weapon permit containing:
 1. The permittee's legal name, as shown on the application;
 2. The permittee's date of birth;
 3. The permittee's physical description, including: origin or race, sex, height, weight, and color of eyes and hair;
 4. A permit number;
 5. The date of issuance and expiration; and
 6. The title of the permit, the state seal, and instructions to the permit holder.~~
- ~~B. The Department shall mail an approved permit to the applicant's residence address or mailing address shown on the application.~~

R13-9-107. Permittee Obligations Repealed

- ~~A. Upon request of any peace officer, a permittee in actual possession of a concealed weapon shall present the permit to the peace officer for inspection. If the permit does not incorporate a photograph of the permittee, the permittee shall also present a separate type of official photographic identification. Official photographic identification is limited to the following:
 1. Driver's license from any state;
 2. Military identification card;
 3. Identification card issued pursuant to A.R.S. § 28-421(01), or
 4. Passport.~~
- ~~B. A permittee shall not carry a concealed weapon in violation of A.R.S. § 13-3102(A).~~
- ~~C. A permittee whose permit is lost or stolen shall notify the Department upon determining the loss. When advised of a lost or stolen permit, the Department shall invalidate the permit. The permittee shall not carry a concealed weapon until a replacement permit is obtained. The permittee may obtain a replacement permit by submitting a written request and the~~

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fee specified in R13-9-103(A)(3). If the applicant meets the requirements of A.R.S. § 13-3112(E)(1), (2), (3), (4), and (5), the Department shall issue a replacement permit within 10 business days of receiving the request. The replacement permit shall have the same expiration date as the lost or stolen permit.

- ~~D.~~ A permittee shall notify the Department in writing within 10 calendar days of any change of name or address. The Department shall process the notice and update the permittee's information on file with the Department.
- ~~E.~~ A permittee whose name is changed from the name stated on the permit may request a revised permit by submitting a written request containing the previous name, the new name, and the fee specified in R13-9-103(A)(4). The revised permit shall retain the same expiration date as the previous permit. Within 10 business days from receipt of the request for a revised permit, the Department shall process the request and mail the revised permit to the permittee with instructions that failure to return the previous permit within 5 business days shall result in suspension of both the previous permit and the new permit. The Department shall destroy the previous permit upon receipt.
- ~~F.~~ A permittee shall not deface, alter, or mutilate a permit, or reproduce, lend, transfer, or sell a permit.

R13-9-108. Permit Renewal Repealed

- ~~A.~~ A concealed weapon permit expires 4 years from date of issuance. An application for renewal of a permit may be submitted at any time between 90 calendar days before permit expiration and 60 calendar days after permit expiration. Upon expiration of a permit, the permittee shall not carry a concealed weapon until in possession of a renewed permit.
- ~~B.~~ To initiate renewal, a permittee shall place a checkmark in the "Renewal Permit Application" box on the application and shall enter all information requested in R13-9-104(B).
- ~~C.~~ The permittee shall answer "yes" or "no" on the application to the questions listed in R13-9-104(C).
- ~~D.~~ A permittee shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the permittee's original signature in the space provided.
- ~~E.~~ A permittee shall obtain the signature of a firearms safety instructor in the space provided on the application, certifying that the permittee satisfactorily completed a Department-approved refresher firearms safety training program.
- ~~F.~~ The certificate shall include the items of information required in R13-9-104(F).
- ~~G.~~ A certificate of completion of a refresher firearms safety training program shall remain valid for 6 months after the applicant satisfactorily completes the training.
- ~~H.~~ A permittee shall submit to the Department the original application, a completed fingerprint card with prints of sufficient quality to enable them to be classified, and the fees specified in R13-9-103.
- ~~I.~~ The Department shall review and process the renewal application pursuant to R13-9-105. If the renewal application is received within 60 calendar days after expiration of the permit and the permittee meets the requirements of A.R.S. §§ 13-3112(E)(1) through (5), 13-3112(K) and (L), and this Article, the Department shall issue a renewed permit containing the information specified in R13-9-106(A).
- ~~J.~~ The Department shall deny a renewal application if it is received more than 60 calendar days after expiration of the permit. Within 10 business days after denying an application for renewal of a permit that has been expired for more than 60 calendar days, the Department shall return the application with a written notice stating the reason for denial and instructing the applicant to file for a new permit.

R13-9-109. Firearms Safety Instructor Approval Repealed

- ~~A.~~ An applicant seeking approval to be a firearms safety instructor shall place a checkmark in the "Training Instructor Approval Application" box on the application and enter the information requested in R13-9-104(B).
- ~~B.~~ An applicant seeking approval to be a firearms safety instructor shall answer "yes" or "no" to the questions listed in R13-9-104(C)(1), (2), (3), (5), (6), (7), and (8) on the application.
- ~~C.~~ An applicant shall attest, under the penalty of perjury, to the truthfulness of the information and answers given on the application by placing the applicant's original signature in the space provided at the bottom of the form.
- ~~D.~~ To be eligible for approval as a firearms safety instructor, an applicant shall:
 - 1. Meet the requirements of A.R.S. §13-3112(E)(1), (2), (3), (4), and (5); and
 - 2. Possess a certificate of completion from 1 of the authorized firearms safety training programs listed below:
 - a. Arizona Basic Police Firearms Instructor Certification, issued by the Peace Officers Standards and Training Board;
 - b. Police Firearms Instructor Development School, issued by the National Rifle Association;
 - c. Law Enforcement Security Firearms Instructor Development School, issued by the National Rifle Association;
 - or
 - d. Personal Protection Instructor rating and Basic Pistol Instructor rating, issued by the National Rifle Association.
- ~~E.~~ An applicant seeking approval to be a firearms safety training instructor shall submit to the Department:
 - 1. An original application;
 - 2. A certificate of completion from 1 of the instructor training programs listed in subsection (D)(2);
 - 3. A completed fingerprint card with prints of sufficient quality to enable them to be classified, and
 - 4. The fees specified in R13-9-103(A)(5) and (B) for a firearms safety instructor approval only, or
 - 5. The fees specified in R13-9-103(A)(6) and (B) for a firearms safety instructor approval and a concealed weapon per-

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mit.

- ~~F.~~ The Department shall review and process an application for a firearms safety instructor approval consistent with the procedures in R13-9-105(A) through (C), except that a certificate of completion from 1 of the training programs listed in R13-9-109(D) shall replace the requirements of R13-9-104(E) and (F).
- ~~G.~~ If an application for firearms safety instructor includes a request for a concealed weapon permit, the application shall be processed consistent with the procedures in R13-9-105(A) through (D).
- ~~H.~~ The Department shall notify the applicant in writing of approval or disapproval within 60 calendar days after receiving a completed application. The Department shall assign an identification number to each approved firearms safety instructor. A firearms safety instructor's approval from the Department shall remain in effect unless suspended or revoked, or the instructor becomes ineligible pursuant to A.R.S. § 13-3112 or this Article.

R13-9-110. Firearms Safety Training Program Approval Repealed

- ~~A.~~ An organization seeking approval of its firearms safety training program shall submit to the Department the following information on the application:
 - 1. The business name of the organization;
 - 2. The business address and mailing address of the organization, and
 - 3. The name and telephone number of an individual who shall serve as the primary contact with the Department and who shall have the authority to sign for and bind the organization.
- ~~B.~~ The person designated under subsection (A)(3) shall attest, under the penalty of perjury, to the truthfulness of the information given on the application by signing in the space provided at the bottom of the form.
- ~~C.~~ The organization shall attach to the application detailed topical outlines of its proposed classroom and practical training program. The outlines shall include test questions and their correct answers and cover the topics required by A.R.S. § 13-3112(N) for the initial training program. The topical outlines shall require that all target practice during training and qualifying shall be conducted using a firearm with live ammunition.
- ~~D.~~ The Department shall review the application to verify that the organization has submitted the required forms and information. Within 10 business days of receipt, the Department shall return an incomplete, illegible, or non-original application with a written description of the deficiencies. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and this Article.
- ~~E.~~ An organization needing assistance in developing a firearms safety training program may submit a written request to the Department.
- ~~F.~~ Program approval shall remain in effect unless the organization's approval is suspended or revoked for failure to maintain the requirements of A.R.S. § 13-3112 or this Article.
- ~~G.~~ Within 90 calendar days after an organization's program is approved by the Department, the organization shall submit a written list of its Department approved firearms safety instructors' names and assigned numbers.
- ~~H.~~ A firearms safety training organization shall notify the Department in writing within 10 calendar days of any change in its list of approved instructors, business address, telephone number, or name of the individual serving as the primary contact with the Department.
- ~~I.~~ A firearms safety training organization shall send a written notice to the Department at least 10 calendar days before changing its business name. The notice shall state the effective date of the change and the Department shall update its records.
- ~~J.~~ For each individual who receives initial or refresher training, the firearms safety training organization shall maintain the following written records for 5 years from the date of the trainee's completion of, or withdrawal from, the training:
 - 1. Name and age of the individual at the time training commenced;
 - 2. Dates and number of hours of each training session;
 - 3. Physical location of each training session;
 - 4. Title and Department assigned number of the training program;
 - 5. Name and assigned number of each instructor conducting the training sessions; and
 - 6. Outcome of the training: passed, failed, or withdrew from the program.
- ~~K.~~ Upon request by the Department, a firearms safety training organization shall make its firearms safety training records available to the Department for inspection.

R13-9-111. Suspension or Revocation Repealed

- ~~A.~~ The Department shall suspend a concealed weapon permit if the permittee fails to carry the permit when in actual possession of a concealed weapon. The Department shall restore the permit under the condition specified in A.R.S. § 13-3112(B).
- ~~B.~~ The Department shall suspend a permit if the permittee is arrested or indicted for an offense that would make the permittee unqualified under the provisions of A.R.S. § 13-3101(6) or 13-3112. The Department shall restore the permit under the conditions specified in A.R.S. § 13-3112(C).
- ~~C.~~ The Department shall revoke a permit under the conditions specified in A.R.S. § 13-3112(C).
- ~~D.~~ The Department shall suspend or revoke a permit if the permittee fails to maintain all of the conditions specified in A.R.S.

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~~§ 13-3112(E)-~~

- ~~E.~~ The Department may suspend or revoke a permit, firearms safety instructor approval, or firearms safety program approval if the permittee, instructor, or organization:
 - 1. Violates or fails to meet any requirement of A.R.S. §13-3112 or of this Article;
 - 2. Fails to continuously maintain any condition or requirement necessary for the issuance of a permit or granting of approval under A.R.S. § 13-3112 or this Article; or
 - 3. Provides false, incomplete, or misleading information to the Department.
- ~~F.~~ The Department may suspend a permit or approval for up to 1 year.
- ~~G.~~ If the Department revokes a permit or approval, the affected permittee, instructor, or organization shall not reapply for such permit or approval for 2 years from the date of revocation.
- ~~H.~~ The Department shall notify the affected permittee, instructor, or organization and state the reason for suspension or revocation. The notice shall be sent by mail to the last known address of the permittee, instructor, or organization. For purposes of R13-9-111, R13-9-112, and R13-9-113, notice shall be considered received on the earlier of the date of actual receipt or the 5th calendar day after the date of mailing.
- ~~I.~~ Upon receipt of a notice of suspension or revocation:
 - 1. A permittee shall return the permit to the Department within 5 business days;
 - 2. An instructor shall immediately stop providing instruction, and
 - 3. An organization shall immediately stop conducting any program.
- ~~J.~~ The Department may require immediate surrender of a permit or may seize a permit when required under A.R.S. § 13-3112.

R13-9-112. Reconsideration, Request for Hearing Repealed

- ~~A.~~ On receipt of a notice of denial:
 - 1. An applicant for a concealed weapon permit or renewal of a permit may submit additional documentation to the Department. The applicant shall submit the documentation within 20 calendar days from receipt of the notice of denial.
 - 2. On receipt of additional documentation, the Department shall reconsider its decision and inform the applicant within 20 calendar days of the Department's final decision. The decision is final upon mailing.
 - 3. If denied after reconsideration under subsection (A)(2), the Department shall notify the applicant of the right to appeal to superior court.
 - 4. If the applicant has not submitted additional documentation under subsection (A)(1), the decision is final at the expiration of the 20-calendar-day period allowed for submission.
- ~~B.~~ On receipt of a notice of:
 - 1. Suspension or revocation of a permit; or
 - 2. Denial, suspension, or revocation of a firearms safety instructor approval; or
 - 3. Denial, suspension, or revocation of a firearms safety training program approval; the affected individual or organization is entitled to a hearing. A written request for a hearing shall be filed with the Department within 15 calendar days of receipt of the notice. The request shall be directed to the name and address stated in the notice.

R13-9-113. Hearing Repealed

- ~~A.~~ The Department shall grant a hearing to an individual or organization filing a timely application for a hearing under R13-9-112(B).
- ~~B.~~ The Department shall notify the requester at least 20 calendar days before the hearing date. The notice shall include:
 - 1. A statement of the time, place, and nature of the hearing;
 - 2. A statement of the legal authority and jurisdiction under which the hearing is being held;
 - 3. Reference to the particular sections of the statutes and rules involved; and
 - 4. A statement of the issues or matters involved.
- ~~C.~~ The hearing shall be conducted in accordance with the provisions of A.R.S. Title 41, Chapter 6, Article 6 for hearing a contested case before an agency.
- ~~D.~~ Hearings shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings.
- ~~E.~~ Hearings shall be conducted by a hearing officer appointed by the Office of Administrative Hearings pursuant to A.R.S. Title 41, Chapter 6, Article 10.
- ~~F.~~ Hearings shall be held at a location determined by the Department.
- ~~G.~~ Irrelevant, immaterial, or unduly repetitious evidence shall be excluded by the hearing officer.
- ~~H.~~ Notice may be taken of judicially cognizable facts and of recognized technical or scientific facts within the Department's specialized knowledge. The Department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.
- ~~I.~~ Hearings shall be tape recorded.
- ~~J.~~ The individual or organization shall have the right to be represented by counsel, to submit evidence in open hearing, and

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shall have the right of cross-examination.

- ~~K.~~ The hearing officer may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence and shall have the power to administer oaths.
- ~~L.~~ The individual or organization shall submit to the hearing officer for approval any subpoena at least 10 calendar days prior to the hearing. If approved, the submitting party shall be responsible for service.
- ~~M.~~ The hearing officer shall submit the findings to the Director.
- ~~N.~~ The Director shall review the records of the findings by the hearing officer and may adopt, reverse, modify, supplement, or reject the recommendation of the hearing officer.
- ~~O.~~ The Department shall mail written notice of the Director's decision to the individual or organization within 5 business days after the decision. The notice shall include findings of fact and conclusions of law. Notification shall be mailed to the individual's or organization's last known address and shall be deemed served upon mailing.
- ~~P.~~ The individual or organization shall have the opportunity for a review or rehearing of the decision before the decision becomes final.
 - 1. To obtain a review of the decision, the individual or organization shall file with the Director a written request for review within 15 calendar days after the Department mails the notice of the Director's decision.
 - 2. The Director shall review the decision after receiving a request under subsection (P)(1). The Director shall deny a rehearing unless the Director determines that grounds for a rehearing exist under the following subsection (P)(3).
 - 3. The Director may grant a rehearing for any of the following reasons:
 - a. Irregularity in the proceedings which deprived the individual or organization of a fair hearing;
 - b. The decision was not justified by the evidence or was contrary to law; or
 - c. There is new material evidence which, with reasonable diligence, could not have been discovered and produced at the hearing.
- ~~Q.~~ All denials, suspensions, revocations, and decisions of the Director are effective on the date notice of such action is mailed to the individual or organization.
- ~~R.~~ All denials, suspensions, revocations, and decisions of the Director are final, as set forth in this Article; or, if not otherwise set forth in this Article, are final upon expiration of time to apply for a hearing under R13-9-112(B).
- ~~S.~~ If an application is timely filed for a hearing under R13-9-112(B), the decision of the Director is final:
 - 1. If a request for review is not timely filed under R13-9-113(P)(1);
 - 2. Upon the mailing of the Director's denial of a rehearing under subsection (P)(2); or
 - 3. Upon the mailing of the Director's decision following a rehearing under subsection (P)(3).
- ~~T.~~ When final, a decision may be subject to judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.

ARTICLE 2. CONCEALED WEAPON PERMIT

R13-9-201. Concealed Weapon Permit Eligibility

An applicant for a concealed weapon permit shall meet all requirements under A.R.S. § 13-3112(E), and not be a prohibited possessor.

R13-9-202. Application for a Concealed Weapon Permit

- A. An applicant shall submit to the Department the original application form, a completed fingerprint card with classifiable fingerprints, and the fees specified in R13-9-102.
- B. An applicant for a concealed weapon permit shall submit a complete legible application on an approved Department application form including:
 - 1. Full legal name;
 - 2. County of residence and residence address, including zip code, or descriptive location of residence if an address is not assigned;
 - 3. Mailing address if different from residence address;
 - 4. Social Security number;
 - 5. Driver's license number or state identification card number and state of issuance;
 - 6. Home, business, and cell phone numbers;
 - 7. National origin or race, sex, height, weight, eye color, hair color, date of birth, and place of birth; and
 - 8. Whether the applicant suffers from mental illness, has been adjudicated mentally incompetent, or committed to a mental institution.
- C. An applicant shall attest under penalty of perjury to the truthfulness of the information and answers given on the application by placing the applicant's original signature in the space provided on the form.
- D. Except for an applicant exempted by A.R.S. § 13-3112(E)(6), an applicant shall obtain the completion certification from the applicant's firearms-safety instructor. The firearms-safety instructor shall sign the application, in the space provided, certifying that the applicant satisfactorily completed the firearms-safety training program on the date specified. The exemption granted to peace officers under A.R.S. § 13-3112(E)(6) is only available once for the initial issuance of a permit and shall not be used to renew a permit or upon submission of subsequent applications.
- E. An applicant shall submit a completion certification that includes:

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1. The Department-assigned number of the firearms-safety training program (Training Program Number);
 2. The Department-assigned number of the firearms-safety instructor (Training Instructor Number);
 3. The Department-assigned number of the organization giving the firearms-safety training (Organization Number);
 4. The organization's seal or stamp affixed to the form identifying the organization;
 5. The date the applicant satisfactorily completed the program; and
 6. Signature of the firearms-safety training instructor, which will validate the certification.
- F.** A completion certification of a firearms-safety training program is valid for six months after the applicant satisfactorily completes the training.
- G.** The Department shall require an applicant to provide proof of citizenship, naturalization, or alien residency if the applicant indicates the applicant was not born in the United States.
- H.** An applicant seeking exemption under A.R.S. § 13-3112(E)(6) as a federally credentialed peace officer shall meet the following requirements:
1. Be active or honorably retired federally credentialed law enforcement officer;
 2. Be employed or retired from a federal law enforcement position whose duties are or were primarily the investigation and apprehension of individuals suspected of offenses under the criminal laws of the United States; and
 3. Submit a letter from the federal agency with which the applicant is or was employed that states the applicant meets the requirements in subsections (H)(1) and (2). The letter shall be submitted on the agency's letterhead and include that applicant's name, grade, job series code, job series title, dates of employment, employment status, and name of a person within that agency who was or is the applicant's supervisor and who can verify the applicant's employment status. If the letter fails to clearly define the applicant's eligibility for the law enforcement exemption, the Department shall require or allow the applicant to produce other evidence of eligibility under the law enforcement exemption.

R13-9-203. Permit Issuance

- A.** If an applicant has satisfied the requirements of A.R.S. § 13-3112 and this Chapter, the Department shall issue a concealed weapon permit containing:
1. The permittee's legal name, as shown on the application;
 2. The permittee's date of birth;
 3. The permittee's physical description, including national origin or race, sex, height, weight, and color of eyes and hair;
 4. A permit number;
 5. The date of issuance and expiration; and
 6. The title of the permit, "State of Arizona Concealed Weapon Permit," and the state seal.
- B.** The Department shall mail the permit to the applicant's residence address or mailing address shown on the application.

R13-9-204. Renewal of Concealed Weapon Permit

- A.** A concealed weapon permit expires four years from the date of issuance. An application for renewal of a permit is timely if received by the Department between 90 days before permit expiration and 60 days after permit expiration. Upon expiration of a permit, the permittee shall not carry a concealed weapon until the permittee is in possession of a valid permit. A qualified active or retired peace officer whom received an exemption from the initial sixteen-hour training requirement shall complete an approved four-hour refresher firearms-safety training program to renew a permit.
- B.** The Department shall issue a renewed permit containing the information specified in R13-9-203(A) if:
1. A renewal application is timely received;
 2. The applicant provides a current certificate of completion of a four-hour refresher firearms-safety training program approved by the Department under A.R.S. § 13-3112(L), or an eight-hour firearms safety instructor program provided by the Department that includes the four-hour firearms-safety training program;
 3. The applicant completes an application form containing the information required under R13-9-202;
 4. The completion certification was accepted by the Department within six months after the applicant satisfactorily completed the training; and
 5. The applicant meets the requirements of A.R.S. § 13-3112 and this Chapter.

R13-9-205. Permittee Obligations

- A.** Upon request of any peace officer, a permittee who is in actual possession of a concealed weapon shall present the permit to the peace officer for inspection. If the permit does not include a photograph of the permittee, the permittee shall also present upon request of a peace officer, one of the following types of official photographic identification:
1. Driver's license from any state,
 2. Military identification card,
 3. Identification license issued under A.R.S. § 28-3165, or
 4. Passport.
- B.** A permittee shall not deface, alter, or mutilate a permit, or reproduce, lend, transfer, or sell a permit.

R13-9-206. Lost, Stolen, or Damaged Concealed Weapon Permit

- A.** A permittee whose permit is lost, stolen, or damaged shall notify the Department in writing within 10 days of determining

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that the permit is lost, stolen, or damaged. When advised of a lost, stolen, or damaged permit, the Department shall invalidate the permit. The permittee shall not carry a concealed weapon until the Department issues a replacement.

- B.** A permittee may obtain a replacement permit by submitting a written request and the fee specified in R13-9-102(A)(3). If the applicant meets the requirements of A.R.S. § 13-3112(E), the Department shall issue a replacement permit within 15 working days of receiving the request. The replacement permit shall have the same expiration date as the original permit.
- C.** A permittee whose permit is damaged shall return the damaged permit to the Department with the permittee's written request for a replacement permit.

R13-9-207. Change of Address

A permittee shall notify the Department in writing within 10 days of any change of address. The Department shall process the notice and update the permittee's information on file with the Department.

R13-9-208. Change in Name of Permittee

- A.** A permittee whose name is legally changed shall notify the Department in writing and request a revised concealed weapon permit within 10 days of the name change by submitting a written request containing the previous name, the new name, a copy of the court document or marriage certificate authorizing the name change, and the fee specified in R13-9-102(A)(4).
- B.** Within 15 working days from receipt of the request for a revised permit, the Department shall process the request and mail the revised permit to the permittee with instructions that failure to return the previous permit within five working days shall result in suspension of both the previous permit and the new permit. The Department shall destroy the previous permit upon receipt.
- C.** The revised permit shall retain the same expiration date as the previous permit.

ARTICLE 3. FIREARMS-SAFETY TRAINING PROGRAM

R13-9-301. General Requirements for Firearms-safety Training Program

- A.** An organization shall only conduct firearms-safety training programs or refresher firearms-safety training programs that are approved by the Department.
- B.** An organization shall conduct Department-approved firearms-safety training and refresher firearms-safety training in this state.
- C.** An organization shall only conduct firearms-safety training programs or refresher firearms-safety training programs that are taught by firearms-safety training instructors who meet the qualifications in R13-9-307 and are registered with the Department. An organization shall not allow an instructor whose registration is suspended to teach in the organization's program.

R13-9-302. Application for Firearms-safety Training Program Approval

- A.** An organization seeking approval of a 16-hour firearms-safety training program shall submit to the Department the following information on the Department's application form:
 - 1. The business name of the organization.
 - 2. The business address and mailing address of the organization, and
 - 3. The name and telephone number of a responsible party who shall serve as the contact with the Department and have the authority to sign for and bind the organization.
- B.** The responsible party designated under subsection (A)(3) shall attest under penalty of perjury to the truthfulness of the information given on the firearms-safety training program application by signing in the space provided on the form.
- C.** The responsible party shall attach to the application a detailed topical outline of a proposed classroom and practical training program. The outline shall include test questions and the correct answers and cover the topics required by A.R.S. § 13-3112(N) for the firearms-safety training program. The topical outline shall require that all firearms qualification be conducted using a firearm with live ammunition.
- D.** As part of the application, the responsible party shall submit the organization's written list of applicants for registration or registered firearms-safety instructors and the assigned instructor's registration number. The Department shall not approve a program unless each of the program's instructors meets the requirements of R13-9-307.
- E.** The responsible party shall include, as part of the application, a copy of the organizations seal, or stamp that they will place on all applicants' completion certifications.

R13-9-303. Time-frames for Firearms-safety Training Program Approval

- A.** The Department shall review the application for firearms-safety program approval to verify that the organization has submitted the required forms and information. Within 14 days of receipt, the Department shall return an incomplete, illegible, or non-original application with a written description of the deficiencies. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and R13-9-302. The Department shall notify the organization in writing of approval or disapproval of a program within 60 days after receiving a completed application and topical outline.
- B.** For firearms-safety training program approval, the overall time-frame defined by A.R.S. § 41-1072 is 60 days; which includes:

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1. 14 days for administrative completeness review; and
2. 46 days for substantive review.

C. Program approval remains in effect unless the program is suspended or revoked for failure to maintain the requirements of A.R.S. § 13-3112 and this Chapter.

R13-9-304. Requesting Department Assistance with Program Development

An organization that wishes to receive Department assistance in developing a firearms-safety training program shall submit a written request for assistance to the Department.

R13-9-305. Firearms-safety Training Organization Obligations

A. A responsible party shall notify the Department in writing within 10 days of any change of an organization's registered instructors, business name, address, telephone number, or responsible party.

B. For each individual who receives initial or refresher training, the organization shall maintain the following written records for five years from the date of the individual's completion of, or withdrawal from, the training:

1. Name and age of the individual at the time training commenced;
2. Dates and number of hours of each training session;
3. Physical location of each training session;
4. Title and Department-assigned number of the training program;
5. Name and Department-assigned registration number of each instructor and name of any assistant or co-instructor conducting the training sessions; and
6. Whether the individual passed, failed, or withdrew from the program.

C. Upon request by the Department, an organization shall make its firearms-safety training records available to the Department for inspection.

R13-9-306. Refresher Firearms-safety Training Program

A. The Department shall develop and provide a four-hour refresher firearms-safety training program for use by an organization. An organization shall not use any other refresher firearms-safety training program.

B. Refresher firearms-safety training shall include, but is not limited to, legal issues relating to the use of deadly force, judgmental shooting, safety issues, qualification conducted using a firearm with live ammunition, and a written test.

R13-9-307. Firearms-safety Instructors

A firearm safety training organization shall only use instructors who are registered with the Department and meet the following qualifications:

1. Meet the requirements of A.R.S. § 13-3112(E)(1) through 13-3112(E)(5);
2. Possess a current certificate of completion from one of the following firearms-safety training instructor programs:
 - a. Arizona Basic Police Firearms Instructor Certification issued by the Arizona Peace Officers Standards and Training Board;
 - b. Police Firearms Instructor Development School issued by the National Rifle Association;
 - c. Law Enforcement Security Firearms Instructor Development School issued by the National Rifle Association;
 - d. Pistol Instructor and Personal Protection Instructor rating issued by the National Rifle Association;
 - e. Law Enforcement Tactical Handgun Instructor rating, issued by the National Rifle Association;
 - f. Law Enforcement Handgun/Shotgun Instructor rating, issued by the National Rifle Association; or
 - g. Firearms Instructor Training Program (FITP), issued by a federal law enforcement agency;
3. Satisfactorily complete a 16-hour firearms-safety training program from an organization and provide a completion certification to the Department; and
4. Satisfactorily complete the Department's firearms-safety instructor training program. The Department provides the firearms-safety instructor training program to applicants who meet all other firearms-safety instructor requirements.

R13-9-308. Application for Registration of Firearms-safety Instructor

A. The responsible party of a firearms-safety training organization shall provide to the Department on each instructor:

1. Two sets of classifiable fingerprints and a fee to cover the cost of state and federal fingerprint processing;
2. A complete application form with the information required under R13-9-202(A) and (B);
3. A current certificate of completion from an organization's approved firearms-safety training program referenced in R13-9-307(3);
4. A letter from the responsible party of the organization that includes:
 - a. The organization's identification number and stamp or seal, and
 - b. A statement that the person will be an instructor for that organization.
5. The following evidence of completion from one of the instructor training programs listed in R13-9-307(2):
 - a. For an Arizona Peace Officers' Standards and Training Board program or federal law enforcement agency program, a current certificate of completion; or
 - b. For a National Rifle Association instructor certification program, a current certificate of appointment or the current certification card issued by the National Rifle Association;

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- B. Upon receipt of the documents in subsection (A), the Department shall send notification to the organization of the dates available for the instructor to attend a Department firearms-safety instructor training program; and
- C. After completing the firearms-safety instructor training program and meeting all requirements of R13-9-307, the Department shall register the instructor and notify the organization that the instructor meets the requirements to be a firearms-safety training instructor.

R13-9-309. Firearms-safety Instructor Registration Renewal

- A. The responsible party of a firearms safety organization shall renew instructor registrations every four years by:
 - 1. Submitting a complete, legible application on an approved Department application form with the information required under R13-9-308(A) and (B);
 - 2. Submitting two sets of classifiable fingerprints and a fee to cover the cost of state and federal fingerprint processing;
 - 3. Submitting a letter from the organization that includes:
 - a. The organization's identification number and stamp or seal, and
 - b. A statement that the person will be an instructor for that organization;
 - 4. Ensuring that the instructor satisfactorily completes the Department firearms-safety instructor training program within six months before submitting an application for renewal; and
 - 5. Providing evidence that the applicant has instructed or co-instructed at least eight approved firearms training classes for a minimum of two students each within the four years before the application for renewal.
- B. Upon verification that the firearms-safety instructor meets the qualifications under R13-9-307 and this Chapter, the Department shall renew the registration of the firearms-safety instructor and notify the organization that the instructor continues to meet the requirements to be a firearms-safety training instructor.

ARTICLE 4. HEARINGS AND DISCIPLINARY PROCEEDINGS

R13-9-401. Suspension and Revocation

- A. The Department shall suspend a permit if the permittee is arrested or indicted for an offense that would make the permittee unqualified under the provisions of A.R.S. § 13-3112, or if the permittee is a prohibited possessor. The Department shall restore the permit under the conditions specified in A.R.S. § 13-3112(C).
- B. The Department shall revoke a permit under the conditions specified in A.R.S. § 13-3112(C).
- C. The Department shall suspend or revoke a permit if the permittee fails to maintain all of the conditions specified in A.R.S. § 13-3112(E).
- D. The Department may suspend or revoke a permit, or firearms-safety program approval if the permittee or organization:
 - 1. Violates or fails to meet or continuously maintain any condition or requirement of A.R.S. § 13-3112, or of this Chapter; or
 - 2. Provides false, incomplete, or misleading information to the Department.
- E. The Department shall suspend or revoke approval of a firearms-safety training program if an investigation by the Department determines a firearms-safety instructor or any representative of a firearms-safety training program or firearms-safety training organization:
 - 1. Engaged in or is engaging in a pattern or practice of instructing students that illegal conduct with a firearm is legal; or
 - 2. Fails to maintain a training program that meets the minimum requirements under A.R.S. § 13-3112(N).
- F. If the Department revokes a permit or approval, the affected permittee or organization shall not reapply for a permit or approval for at least two years from the date of revocation.
- G. The Department shall notify the affected permittee or organization in writing and state the reason for the Department's intent to suspend or revoke or if the Department determines that emergency action is required, the reason for the summary suspension. The notice shall be sent by certified mail to the last known address of the permittee or organization. For purposes of Sections R13-9-401 and R13-9-402, notice is considered received on the earlier of the date of actual receipt or the fifth day after the date of mailing. The notice shall include all requirements under A.R.S. § 41-1092 et seq.
- H. Upon receipt of a notice of a summary suspension or final administrative decision suspending or revoking:
 - 1. The permittee shall immediately cease carrying a concealed weapon and return the permit to the Department within five working days.
 - 2. An organization shall ensure that the organization's instructor immediately stop providing instruction, and
 - 3. An organization shall immediately stop conducting any program.
- I. The Department may require immediate surrender of a permit or seize a permit when required to do so under A.R.S. § 13-3112.

R13-9-402. Reconsideration, Request for Hearing

- A. On receipt of a notice of denial:
 - 1. An applicant for a concealed weapon permit or renewal of a permit may submit additional documentation to the Department. The applicant shall submit the documentation within 20 days from receipt of the notice of denial.
 - 2. On receipt of additional documentation, the Department shall reconsider its decision and inform the applicant within 20 days of receiving the documentation of the Department's decision.

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3. If denied after reconsideration under subsection (A)(2), the Department shall notify the applicant of the right to request a hearing under A.R.S. Title 41, Chapter 6, Article 10.
- B. An affected individual or organization is entitled to an administrative hearing under A.R.S. § 41-1092, due to:
 1. Denial, revocation, or suspension of a permit; or
 2. Denial, suspension, or revocation of firearms-safety training program approval.
- C. A person shall file a written request for a hearing with the Department within 30 days of receipt of the notice. The request shall be directed to the name and address stated in the notice.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

PREAMBLE

1. **Sections Affected**

R18-2-326	<u>Rulemaking Action</u>
R18-2-511	Amend
	Amend
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 49-425
Implementing statutes: A.R.S. §§ 49-426 and 49-455
3. **The effective date of the rules:**

November 4, 2004
4. **A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 2440, June 18, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 3173, August 13, 2004
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Kevin Force
Address: Department of Environmental Quality
1110 W. Washington Ave.
Phoenix, AZ 85007
Telephone: (602) 771-4480 (This number may be reached in-state by dialing 1-800-234-5677) and requesting the seven digit number.)
Fax: (602) 771-2366
6. **An explanation of the rules, including the agency's reasons for initiating the rules:**

Summary: ADEQ is changing the fees it charges for air quality permits. The affected fees are fees for permit actions, administrative and emission based fees for Title V sources, inspection fees for non-Title V sources, and fees for general permits. ADEQ is requesting an immediate effective date for these rules.

Background: The Air Permits Administration Fund (APAF) was established by legislation in 1992 to provide a mechanism for administration of revenues and costs for the air pollution permits program for the state of Arizona. When first established, revenues were primarily from annual emission-based fees assessed on sources subject to Title V of the Clean Air Act (40 CFR Part 70). One of the recognized equity issues related to the initial program was that the vast majority of revenues came from a relatively small number of sources while the majority of program costs were a result of activities related to permits for a large number of small sources.

ADEQ developed an updated workload analysis in 1999 of the costs associated with all components of the air quality programs and initiated a stakeholder process to develop a modified structure for revenues that would more equitably distribute the cost of the permitting programs to the sources those programs cover. The Kendall Group, Inc. was retained by some of the stakeholders to provide technical facilitation of the stakeholder debate on a new form and structure for permit fees. This stakeholder process resulted in a recommended structure that decreased revenues from annual emission-based fees (emission fees), increased revenues from annual fixed fees (based on the relative burden to the agency to administer the permits), and updated the revenue basis for processing permit applications (permit-processing fees). This recommendation led to the modification of the Arizona rules for air pollution permit-processing and annual fees. The new fee structure went into effect in 2002. Revenues in Fiscal Year 2003 (July 1, 2002 – June 30, 2003) were substantially lower than expected. Total expenditures in FY 2003 were \$5.1 million while reve-

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nues were only \$3.4 million. This resulted in a \$1.7 million decrease in the APAF balance from \$4.3 to \$2.6 million at the end of FY 2003. Based on the continued projected deficit, ADEQ retained The Kendall Group, Inc. to review the current and projected revenues and develop recommendations on areas that should be addressed to ensure the solvency of the APAF.

The Kendall Group, Inc. reviewed several sources of information and held numerous meetings with ADEQ management and staff to develop findings and recommendations. The Group issued a report, called "Review, Assessment and Recommendations for the Arizona Department of Environmental Quality (ADEQ) Air Permits Administration Fund (Appropriated Fund 2200)" (Kendall report). The following are the key findings and recommendations:

Findings:

- The APAF has been, and continues to operate, in a deficit of approximately \$1.5 million annually despite reductions in expenditures of approximately \$0.7 million since 2000.
- Revenues from annual administrative and emission fees are approximately \$0.6 million per year lower than anticipated due to major source curtailments and closures, permit cancellations, and a shift to less expensive general permits.
- Revenues from permit processing fees are \$1.7 million per year lower than expected due to fewer billable hours being available for cost recovery and some billable hours not being tracked and invoiced.

Recommendations:

- Permit processing fees should be increased from \$68.60 per hour to \$98.80 per hour to reflect the true burdened cost of providing permit processing services.
- Annual administrative and emission fees should be raised approximately 8.46 percent to make up for the effective "subsidy" that exists due to shortfall in permit fee revenues.
- Any changes to the permit fee rules should become effective as soon as possible to address the current deficit in the program.
- ADEQ should consider issuing invoices for annual administrative fees by December 1 of each year so revenues are realized early in the end of the third quarter of the fiscal year.

Based on these findings, ADEQ held three stakeholder meetings in the month of July to inform stakeholders of the seriousness of the problem and the Kendall report, and to discuss the upcoming proposed rule. On August 13, 2004, ADEQ proposed changes to the permit fee rule to implement the recommendations. One comment was received and is discussed later in this rulemaking. This final rule implements the recommendations noted above with an immediate effective date, as described further below, to ensure the continued solvency of the APAF.

Section by Section Explanation of significant changes to the rules.

R18-2-326. Fees Related to Individual Permits: The amendments to this section make several changes to the rule. First, they raise the permit-process fee base from \$68.60 to \$98.80 per hour for all permit processing time required for a billable permit action. Second, administrative and inspection fees have been raised 8.46 percent from the current rate (R18-326(H) authorizes inflation adjustments using the Consumer Price Index, which changes the fees by 12.7 percent from the base rate in the current rule). Third, emission fees have been raised 8.46 percent from the current CPI-adjusted rate of \$12.21 to \$13.34 (or about 12.7 percent from the base rate of \$11.75). Finally, invoices will be issued on December 1 of each year rather than January 31 so that revenues may be realized earlier in each fiscal year. Other dates and deadlines in the rule have been moved up by 60 days to reflect this new schedule.

R18-2-511. Fees Related to General Permits: The amendments to this section parallel those in R18-2-326, except no inflation adjustment is made to general permit fees. Administrative fees for general permits have been increased by 8.46 percent, rounded to the nearest \$10, as shown:

General Permit Source Category	Administrative Fee
Class I Title V General Permits	Administrative fee for category from R18-2-326(C)
Class II Title V Small Source	\$500 \$540
Other Class II Title V General Permits	\$3,000 \$3,250
	Inspection Fee
Class II Non-Title V Gasoline Service Stations	\$500 \$540
Class II Non-Title V Crematories	\$1,000 \$1,080

Finally, the deadline for payment of the applicable fee has been moved up about 60 days, from March 31 to February 1 of each calendar year.

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

“Review, Assessment and Recommendations for the Arizona Department of Environmental Quality (ADEQ) Air Permits Administration Fund (Appropriated Fund 2200),” prepared by The Kendall Group, Inc., June 9, 2004.

This study is currently posted on the ADEQ website and may be accessed by directing one’s web browser to this address: <http://www.adeq.state.az.us/function/laws/download/apaf.pdf>. The study is also available for public review in the ADEQ library at 1110 W. Washington St., Phoenix, AZ 85012.

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

Not applicable

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

A. Rule Identification

This rulemaking amends A.A.C. R18-2-326, “Fees Related to Individual Permits” and A.A.C. R18-2-511, “Fees Related to General Permits.”

B. Background

In 2001, ADEQ promulgated a rulemaking that revised the air quality permit fee structure and anticipated that these changes would provide adequate revenues to operate its air pollution program. A permit-fee rule is statutorily mandated providing for fees paid by sources to support the permit program development and implementation costs. (A.R.S. § 49-426(E)) The new fee structure was effective January 1, 2002 (see A.A.R. 5670). However, because revenues were discovered to be substantially lower than expected, ADEQ retained The Kendall Group, Inc. to evaluate the relationship between expenditures and revenues, and to make recommendations for the solvency of the Air Permits Administration Fund (APAF).

Total expenditures for FY-03, for example, were \$5.1 million compared to \$3.4 million in revenues, and the balance of the APAF declined from \$4.3 million to \$2.6 million. Without a change in permit fees, it was projected that revenues would continue to fall and the APAF would be in jeopardy of becoming insolvent.

Compared to expectations from restructuring the permit fees effective in January 2002, ADEQ’s revenues from annual administrative and emission fees are about \$600,000 lower. The Kendall Group, Inc. concluded that this is due to lower emissions from source curtailments and closures, permit cancellations, and sources shifting to less expensive general permits. They also found that revenues generated from permit processing fees were \$1,700,000 per year lower than expected (78 percent) due to a significant reduction in staffing, and consequently, billed hours.

C. Entities Directly Affected

The 8.46 percent increase in fees for Class I and Class II Title V sources, and Class II Non-Title V sources is expected to directly impact the approximately 725 sources permitted by ADEQ. ADEQ does not expect this rule to have a direct impact on more than 4,000 sources permitted by Maricopa, Pima, and Pinal counties, although A.R.S. § 49-112(B) allows their fees to be approximately equal to ADEQ’s, because ADEQ has no information that the counties are experiencing similar revenue shortfalls.

D. Potential Costs and Benefits

ADEQ expects an increase in revenues from these rule changes that will be sufficient to efficiently and effectively operate its air permit program. The overall 8.46 percent increase in administrative fees, emission-based fees, and inspection fees for ADEQ sources, and fees for general permits, and a 44 percent increase in the permit-processing fee is expected to adequately fund ADEQ’s air permit program for the near future.

Regulatory Agencies

Projected FY 2004 revenues from permitted sources are lower than expected. Part of this shortfall is due to an unrealistic allocation of billable hours for permit writers, a reduction in technical staff, a general economic downturn that started in 2001 following a 10-year economic expansion, and sources shifting from individual permits to general permits.

Licensing time-frames (LTF) refunds and penalties under A.R.S. Title 41, Chapter 6, Article 7.1 have not yet affected this shortfall; to date there have been only a handful of instances where permitting fees have had to be refunded as a result of LTF exceedance, with the total amount refunded being less than \$4,000.00. However, under the present fee structure, only so many permit engineers can be employed and there is currently a permitting backlog, raising concerns that licensing time-frames may not be consistently met. This would result in refunding of more of the costs associated with writing permits, and the potential payment of penalties to the State General Fund. This concern underlies the request for an immediate effective date.

According to The Kendall Group, Inc., revenues from the air permit program are expected to increase by about \$700,000 with the restructured permit fees.¹ ADEQ is not expected to be negatively impacted by these rule changes

because they do not impose any new burdens upon the Agency. A benefit to ADEQ is the shift in the due dates for fee payments 60 days earlier than currently is the requirement. This should result in revenues accruing early in the third quarter of the fiscal year rather than at the end of the third and beginning of the fourth quarter, as is currently the case.

Other agencies are not expected to be directly impacted. There is no information that the counties operating their own air quality programs would be indirectly impacted. County fees must be less than or approximately equal to the state fee for similar permits under A.R.S. § 49-112(B). Current information is that county fees are adequate to support their permitting programs.

Regulated Community

Entities impacted include Class I Title V sources (e.g., cement plants, combustion boilers, compressor stations, lime plants, mines, paper plants, smelters, utilities, and others); Class II Title V sources (synthetic minors, other stationary sources, portable sources, and small sources); Class II Non-Title V sources (stationary, portable sources, gasoline service stations, and crematories).

The objective of amending the permit fees (emission-based, administrative, inspection, and processing) is to balance expenditures with revenues. As a result, the economic impact on the sources as an aggregate should be at least \$700,000 in additional fees that they will need to pay to ADEQ. This represents the incremental cost burden to the regulated community.

At least partially offsetting this incremental cost, the regulated community is avoiding the potential impacts of failure of the Air Permits Administration Fund. Under the Title V of the Clean Air Act and federal implementing regulations, EPA would be forced to intervene if the Fund failed and ADEQ was no longer able to staff and operate its permitting programs. ADEQ could lose authority to operate the Title V program, and EPA would operate the program, charging and collecting the fees it needed to operate the program from San Francisco. In addition, uncertainty related to permitting would discourage investment in new and expanded industrial activity. Finally, the permit fees under this rule fund program operations such as inspections. A lack of inspections would produce an uneven playing field, with no penalties for noncompliance, in effect penalizing those who comply.

This rulemaking is not expected to impact either short or long-term employment, production, or industrial growth in Arizona. ADEQ expects no facility closures or reductions in output due to increased fees.

Consumers and Public

ADEQ expects a minimal impact to consumers and the general public. Although some sources may absorb the higher cost of doing business, others may pass-on the higher costs to consumers, depending on market conditions and elasticities of buyers and sellers.² Adjusting revenue streams for the Air Quality Division will facilitate timely issuance of air pollution control permits to further improve air quality and achieve national public health standards with appropriate permit conditions. The well-functioning air permits program will more realistically balance expenditures with revenues from sources of air pollution, and provide a better business climate which improves employment opportunities.

E. Potential Impacts to Small Businesses

ADEQ has considered a variety of methods to reduce the impact of this rule on small businesses, as prescribed in A.R.S. §§ 41-1035 and 41-1055(B)(5)(c). These methods include: establishing less stringent compliance or reporting requirements, establishing less stringent schedules or deadlines for compliance or reporting requirements, consolidating or simplifying the rulemaking's reporting requirements, establishing performance requirements to replace design or operational standards, and exempting small businesses from some or all of the rule requirements. The statutory

1. An estimated increase of \$701,900 in permit fee revenues was derived from the Kendall report by computing the difference between 2004 "actual" revenues and 2004 "actuals" after applying the restructured permit fees. The calculations included emission-based fees for Class I Title V sources (\$63,400); permit processing billable hours @ 13,875 for Title V and Non-Title V sources, including amendments (\$419,000); Class I Title V flat fee (\$67,300); Class II Title V sources (\$51,700); and Class II Non-Title V sources (\$100,500).

2. Elasticity is defined as the response by buyers and sellers to an increase in price. The price elasticity of demand measures the sensitivity of quantity demanded to a change in price. For example, if a 5% increase in the price of a product results in a 10% decline in sales, the good would be classified as relatively elastic. Conversely, if that same 5% increase in the price of the good resulted in only a 4% decline in sales, that good would be classified as inelastic. In other words, it can be said that consumers of that product are less sensitive to an increase in price. A product will be more elastic if substitute products are readily available, if the product is relatively important in consumers' budget, and if the time-frame is relatively short because consumers' are likely to be more sensitive to price over a longer period of time. A general rule is that most of increased compliance costs can be passed on to consumers if demand for a product is relatively inelastic and supply is elastic. However, that is based on holding other factors constant that could potentially influence this rule.

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directive that permit fees must be related to costs prohibits ADEQ from implementing almost any of these methods for small businesses. As a result, permit fees are based on regulatory costs rather than size of the source.

One possible exception has already been implemented. As evident in R18-2-511, authority to operate under general permits is available at a somewhat reduced cost when compared to individual permits. General permits tend to be used by smaller sources. In addition, no source under a general permit is subject to the permit-processing fee.

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

I) In R18-2-326(J), the word “calendar,” after “entire preceding,” and the words “year prior to the,” after the “October 15 of the,” have been stricken. As specific due dates for invoicing and payment of fees have been moved up by 60 days, to leave the stricken language in the rule would require inactive sources to submit a letter to the Director, certifying their inactive status, more than 13 months in advance of when the Director would mail invoices, according to subsection (F); the letter would not only be untimely, but it would be in reference to the incorrect year. By removing the stricken language, ADEQ removes this potential ambiguity and conflict:

J. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding calendar year shall pay 50 percent of the administrative or inspection fee required under subsection (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the Director by ~~December 15~~ October 15 of the year prior to the billing year. Termination of a permit does not relieve a source of any past fees due.

2) In R18-2-326(K)(2)(a), the phrase “calendar year 2004” has been changed to read, “calendar year 2003.”

K. Transition.

1. Subsections (A) through (J) of this Section are effective on the effective date of this rule. The first administrative or inspection fees are due on February 1, 2005.

2. Except as provided in subsection (b), all fees incurred after the effective date of this rule are payable in accordance with the rates contained in this Section.

a. Emission-based fees for calendar year ~~2004~~ 2003 shall be billed at \$13.24 per ton and be due February 1, 2005.

b. The hourly rates and maximum fees for a new permit or permit revision are those in effect when the application for the permit or revision is determined to be complete.

c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the Department.

3) For reasons of clarity, conciseness, and understandability, the last sentence of R18-2-326(G) has been removed, and a new subsection R18-2-326(G)(3) has been added:

G. Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest. as provided below: If the bill is paid under protest, the Director shall take final action on the permit or permit revision.

1. The request shall be made in writing, and received by the Director within 30 days of the date of the final bill. Unless the Director and person agree otherwise, the informal review shall take place within 30 days after the Director’s receipt of the request. The Director shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The Director shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The Director’s decision after informal review shall become final unless, within 30 days after person’s receipt of the informal review decision, the person requests a hearing under R18-1-202.

3. If the final itemized bill is paid under protest, the Director shall take final action on the permit or permit revision.

4) Throughout the rules, language reading, “effective date of the rule,” has been changed to “November 5, 2004.”

5) In R18-2-326(C)(1), in the table, the administrative fee figure for Lime Plants was changed from \$42,050 to \$41,700. The original figure was the result of an arithmetic error:

C. Class I Title V Fees. The owner or operator of a Class I Title V source that has undergone initial startup by January 1 shall annually pay to the Director an administrative fee plus an emissions-based fee as follows:

1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by ~~March 31~~ February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

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Class I Title V Source Category	Administrative Fee
Aerospace	\$12,900 <u>\$14,540</u>
Cement Plants	\$39,500 <u>\$44,520</u>
Combustion/Boilers	\$9,600 <u>\$10,820</u>
Compressor Stations	\$7,900 <u>\$8,900</u>
Electronics	\$12,700 <u>\$14,320</u>
Expandable Foam	\$9,100 <u>\$10,260</u>
Foundries	\$12,100 <u>\$13,640</u>
Landfills	\$9,900 <u>\$11,150</u>
Lime Plants	\$37,000 <u>\$41,700</u>
Copper & Nickel Mines	\$9,300 <u>\$10,480</u>
Gold Mines	\$9,300 <u>\$10,480</u>
Mobile Home Manufacturing	\$9,200 <u>\$10,370</u>
Paper Mills	\$12,700 <u>\$14,310</u>
Paper Coaters	\$9,600 <u>\$10,820</u>
Petroleum Products Terminal Facilities	\$14,100 <u>\$15,890</u>
Polymeric Fabric Coaters	\$12,700 <u>\$14,310</u>
Reinforced Plastics	\$9,600 <u>\$10,820</u>
Semiconductor Fabrication	\$16,700 <u>\$18,830</u>
Copper Smelters	\$39,500 <u>\$44,520</u>
Utilities - Natural Gas	\$10,200 <u>\$11,490</u>
Utilities - Fossil Fuel Except Natural Gas	\$20,200 <u>\$22,760</u>
Vitamin/Pharmaceutical Manufacturing	\$9,800 <u>\$11,050</u>
Wood Furniture	\$9,600 <u>\$10,820</u>
Others	\$9,900 <u>\$11,150</u>
Others with Continuous Emissions Monitoring	\$12,700 <u>\$14,320</u>

6) Minor grammatical and technical changes.

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

Comment 1: One commenter noted that ADEQ proposed accelerating the invoicing process by about 2 months. Fees which were due by March 31 would now be due by February 1 of each year. ADEQ would be sending out invoices during the holidays, when staffing at both agency and invoiced companies are typically reduced. ADEQ did not, however, propose a change to the timeline for submittal of inventories upon which fee assessments are based. While the commenter doesn't believe there will be any significant consequence to this change in the timeline, commenter believes that it is critical that ADEQ retain language stating that fees are due by a certain date "*or 60 days after the Director mails the invoice . . . whichever is later.*" (Emphasis added by commenter.)

Response: ADEQ agrees with the commenter.

Comment 2: Commenter notes that in subsection R18-2-326(K)(2)(a) the year "2000" has been stricken and replaced with the year "2004." Commenter believes that it should instead read, "2003," as invoices issued in late 2004, and due in 2005, are based on source-submitted emission data for calendar year 2003, per A.A.C. R18-2-327(A).

Response: ADEQ agrees with the commenter.

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

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Not applicable

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

None

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

No

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

ARTICLE 3. PERMITS AND PERMIT REVISIONS

Section

R18-2-326. Fees Related to Individual Permits

ARTICLE 5. GENERAL PERMITS

Section

R18-2-511. Fees Related to General Permits

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-326. Fees Related to Individual Permits

- A. Source Categories.** The owner or operator of a source required to have an air quality permit from the Director shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article 5. The fees are based on a source being classified in one of the following three categories:
1. Class I Title V sources are those required or that elect to have a permit under R18-2-302(B)(1).
 2. Class II Title V sources are those required to have a permit under R18-2-302(B)(2) and for which either R18-2-302(B)(2)(a)(i) or (ii) applies.
 3. Class II Non-Title V sources are those required to have a permit under R18-2-302(B)(2) and for which neither R18-2-302(B)(2)(a)(i) nor (ii) applies.
- B. Fees for Permit Actions.** The owner or operator of a Class I Title V source, Class II Title V source, or Class II Non-Title V source shall pay to the Director ~~\$66~~ \$98.80 per hour, adjusted annually under subsection (H), for all permit processing time required for a billable permit action. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. Except as provided in subsection (G), the Director shall not issue a permit or permit revision until the final bill is paid in full.
- C. Class I Title V Fees.** The owner or operator of a Class I Title V source that has undergone initial startup by January 1 shall annually pay to the Director an administrative fee plus an emissions-based fee as follows:
1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by ~~March 31~~ February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class I Title V Source Category	Administrative Fee
Aerospace	\$12,900 <u>\$14,540</u>
Cement Plants	\$39,500 <u>\$44,520</u>
Combustion/Boilers	\$9,600 <u>\$10,820</u>
Compressor Stations	\$7,900 <u>\$8,900</u>
Electronics	\$12,700 <u>\$14,320</u>
Expandable Foam	\$9,100 <u>\$10,260</u>
Foundries	\$12,100 <u>\$13,640</u>
Landfills	\$9,900 <u>\$11,150</u>
Lime Plants	\$37,000 <u>\$41,700</u>
Copper & Nickel Mines	\$9,300 <u>\$10,480</u>
Gold Mines	\$9,300 <u>\$10,480</u>

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Mobile Home Manufacturing	\$9,200 <u>\$10,370</u>
Paper Mills	\$12,700 <u>\$14,310</u>
Paper Coaters	\$9,600 <u>\$10,820</u>
Petroleum Products Terminal Facilities	\$14,100 <u>\$15,890</u>
Polymeric Fabric Coaters	\$12,700 <u>\$14,310</u>
Reinforced Plastics	\$9,600 <u>\$10,820</u>
Semiconductor Fabrication	\$16,700 <u>\$18,830</u>
Copper Smelters	\$39,500 <u>\$44,520</u>
Utilities - Natural Gas	\$10,200 <u>\$11,490</u>
Utilities - Fossil Fuel Except Natural Gas	\$20,200 <u>\$22,760</u>
Vitamin/Pharmaceutical Manufacturing	\$9,800 <u>\$11,050</u>
Wood Furniture	\$9,600 <u>\$10,820</u>
Others	\$9,900 <u>\$11,150</u>
Others with Continuous Emissions Monitoring	\$12,700 <u>\$14,320</u>

2. An emissions-based fee of ~~\$11.75~~ \$13.24 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (d) and due by ~~March 31~~ February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.
- a. For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under R18-2-327.
 - b. For purposes of this Section, regulated pollutants consist of the following:
 - i. Nitrogen oxides and any volatile organic compounds;
 - ii. Conventional air pollutants, except carbon monoxide and ozone;
 - iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and
 - iv. Any federally listed hazardous air pollutant.
 - c. For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:
 - i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
 - ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀;
 - iii. Emissions from insignificant activities listed in the permit application for the source under R18-2-304(E)(8);
 - iv. Fugitive emissions of PM₁₀ from activities other than crushing, belt transfers, screening, or stacking; and
 - v. Fugitive emissions of VOC from solution-extraction units.
 - d. The Director shall adjust the rate for emission-based fees every ~~January 1~~ November 1, beginning on ~~January 1, 2003~~ November 5, 2004, by multiplying ~~\$11.75~~ \$13.24 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year ~~2001~~ 2004. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

D. Class II Title V Fees. The owner or operator of a Class II Title V source that has undergone initial startup by January 1 shall pay the applicable administrative fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by ~~March 31~~ February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

CLASS II Title V Source Category	Administrative Fee
Synthetic minor sources, except portable sources	Administrative fee from Class I Title V table for category
Stationary	\$5,000 <u>\$5,640</u>
Portables	\$5,000 <u>\$5,640</u>
Small Source	\$500 <u>\$560</u>

E. Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V source that has undergone initial startup by January 1 shall pay the applicable inspection fee from the table below, adjusted under subsection (H), for that calendar

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year, and annually thereafter. The fee is due by ~~March 31~~ February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Non-Title V Source Category	Inspection Fee
Stationary	\$3,250 <u>\$3,660</u>
Portables	\$3,250 <u>\$3,660</u>
Gasoline Service Stations	\$500 <u>\$560</u>

- F. The Director shall mail the owner or operator of each source an invoice for all fees due under subsections (C), (D), or (E) by ~~January 31~~ December 1.
- G. Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest, as provided below; ~~if the bill is paid under protest, the Director shall take final action on the permit or permit revision.~~
 1. The request shall be made in writing, and received by the Director within 30 days of the date of the final bill. Unless the Director and person agree otherwise, the informal review shall take place within 30 days after the Director's receipt of the request. The Director shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The Director shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.
 2. The Director's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests a hearing under R18-1-202.
 3. If the final itemized bill is paid under protest, the Director shall take final action on the permit or permit revision.
- H. The Director shall adjust the hourly rate every ~~January 1, 2003~~ November 1, 2004, to the nearest 10 cents per hour, beginning on ~~January 1, 2003~~ November 5, 2004, by multiplying ~~\$66~~ \$98.80 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year ~~2001~~ 2004. The Director shall adjust the administrative or inspection fees listed in subsections (C), (D), and (E) every ~~January 1, 2003~~ November 1, 2004, to the nearest \$10, beginning on ~~January 1, 2003~~ November 5, 2004, by multiplying the administrative or inspection fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year ~~2001~~ 2004. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.
- I. An applicant for a Class I or Class II permit or permit revision may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days before filing the application. The request shall be accompanied by an initial fee of \$15,000. The fee is non-refundable to the extent of the Director's costs for accelerating the processing if the Director undertakes the accelerated processing described below:
 1. If an applicant requests accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision ~~in accordance with~~ according to the following schedule:
 - a. For applications for initial Class I and II permits under R18-2-302 or significant permit revisions under R18-2-320, the Director shall issue or deny the proposed permit or permit revision within 120 days after the Director determines that the application is complete.
 - b. For minor permit revisions under R18-2-319, the Director shall issue or deny the permit revision within 60 days after receiving a complete application.
 2. At any time after an applicant requests accelerated permit processing, the Director may require additional advance payments based on the most recent estimate of additional costs.
 3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. The final bill shall include all regular permit-processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the Director in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Director shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of R18-2-330, or EPA and affected state review as required under R18-2-307 or R18-2-319.
- J. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding ~~calendar~~ year shall pay 50 percent of the administrative or inspection fee required under subsection (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the

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Director by ~~December 15~~ October 15 of the year prior to the billing year. Termination of a permit does not relieve a source of any past fees due.

K. Transition.

1. Subsections (A) through (J) of this Section are effective ~~January 1, 2002~~ November 5, 2004. The first administrative or inspection fees are due on ~~March 31, 2002~~ February 1, 2005.
2. Except as provided in subsection (b), all fees incurred after ~~January 1, 2002~~ November 5, 2004 are payable in accordance with the rates contained in this Section.
 - a. Emission-based fees for calendar year ~~2000~~ 2003 shall be billed at ~~\$11.75~~ \$13.24 per ton and be due ~~March 31, 2002~~ February 1, 2005.
 - b. The hourly rates and maximum fees for a new permit or permit revision are those in effect when the application for the permit or revision is determined to be complete.
 - c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the Department.

ARTICLE 5. GENERAL PERMITS

R18-2-511. Fees Related to General Permits

- A. Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the Director \$500 with the submittal of the application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal.
- B. Administrative or Inspection Fee. The owner or operator of a source with authority to operate under a general permit shall pay, for each calendar year, the applicable administrative or inspection fee from the table below, by ~~March 31~~ February 1 or 60 days after the Director mails the invoice, whichever is later.

General Permit Source Category	Administrative Fee
Class I Title V General Permits	Administrative fee for category from R18-2-326(C)
Class II Title V Small Source	\$500 <u>\$540</u>
Other Class II Title V General Permits	\$3,000 <u>\$3,250</u>
	Inspection Fee
Class II Non-Title V Gasoline Service Stations	\$500 <u>\$540</u>
Class II Non-Title V Crematories	\$1,000 <u>\$1,080</u>
Other Class II Non-Title V General Permits	\$2,000 <u>\$2,170</u>