

# Arizona Administrative REGISTER

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C., and is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

# Arizona Administrative REGISTER

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This publication is available online for  
free at [www.azsos.gov](http://www.azsos.gov).

**ADMINISTRATIVE CODE**  
A price list for the *Arizona  
Administrative Code* is available  
online. You may also request a paper  
price list by mail. To purchase a paper  
Chapter, contact us at  
(602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the  
back of the *Register*. These dates  
include file submittal dates with a  
three-week turnaround from filing to  
published document.

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

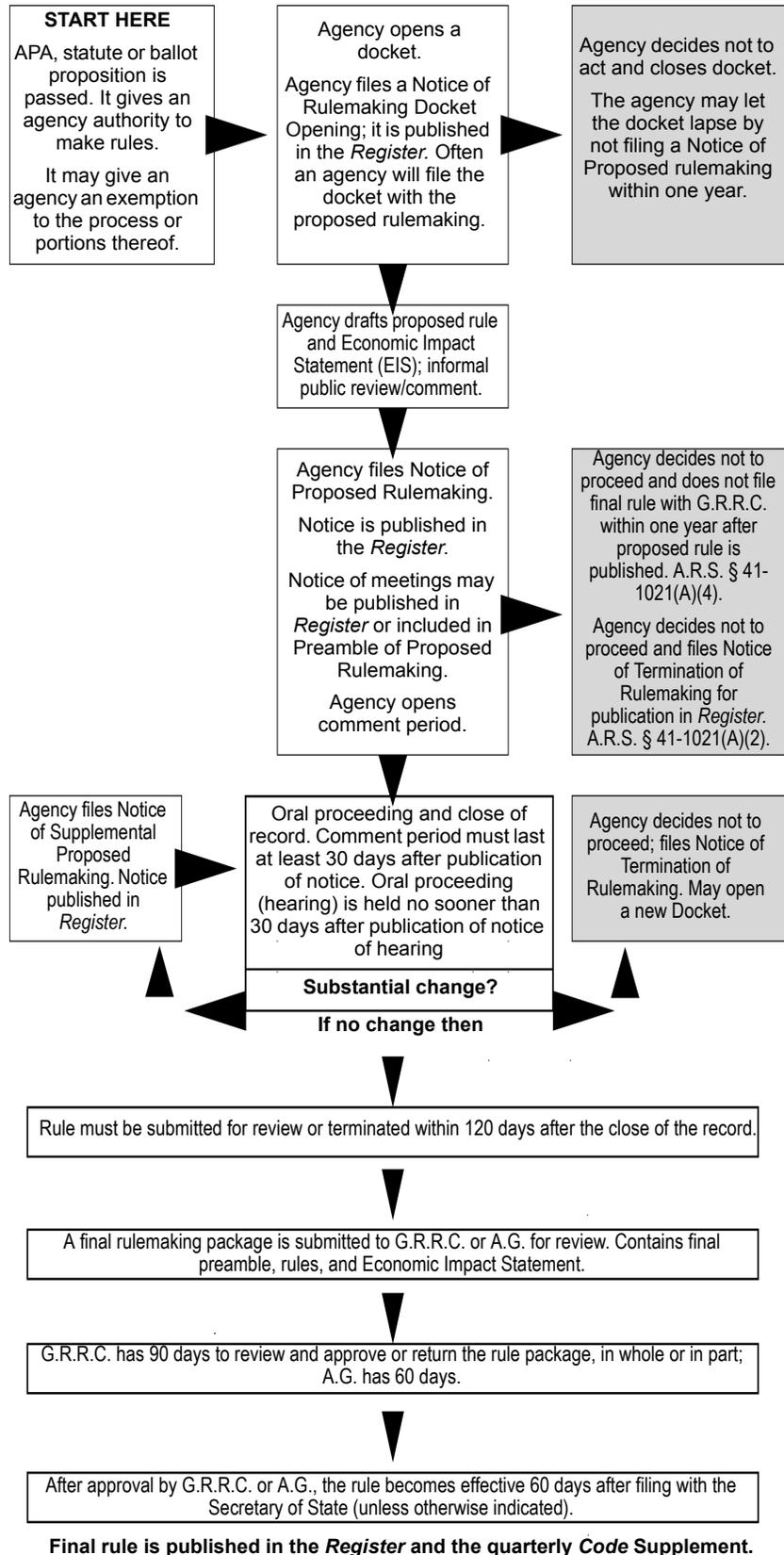
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

# Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

[R17-114]

**PREAMBLE**

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R4-7-502  | Amend                           |
| R4-7-503  | Amend                           |
| R4-7-602  | Amend                           |
| R4-7-801  | Amend                           |
| R4-7-1301   | Amend                           |
| R4-7-1401   | Amend                           |
| R4-7-1403   | Amend                           |
| R4-7-1404   | Amend                           |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 32-904(B)(2)  
 Implementing statute: A.R.S. § 32-904(B)(2)
  - 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 1905, July 14, 2017 (*in this issue*).
  - 4. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Justin Bohall, Executive Director  
 Address: Board of Chiropractic Examiners  
 1951 W. Camelback Road, Suite 330  
 Phoenix, AZ 85015  
 Telephone: (602) 864-5088  
 Fax: (602) 864-5099  
 E-mail: Rules@chiroboard.az.gov  
 Web site: www.chiroboard.az.gov
  - 5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
 An exemption from Executive Order 2017-02 was provided for this rulemaking by Mara Mellstrom, Policy Advisor, Governor’s Office, in an email dated February 22, 2017.  
 The Board proposed to amend rules to address: legislative changes, outdated rules, and to reduce the regulatory burden on professionals.  
 The Board is also proposing to promulgate rules regarding “Percutaneous Therapy” Technique.
  - 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:**  
 Not applicable



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

Not applicable

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

The Board does not anticipate a substantial increase cost to licensees, small businesses or consumers. The Board anticipates that there will be a reduction of cost due to the relieving of regulatory burdens as well as a reduction of the processing times in various applications.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Justin Bohall, Executive Director  
Address: Board of Chiropractic Examiners  
1951 W. Camelback Rd., Suite 330  
Phoenix, AZ 85015  
Telephone: (602) 864-5088  
Fax: (602) 864-5099  
E-mail: Rules@chiroboard.az.gov  
Web site: www.chiroboard.az.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding regarding the proposed rules will be held as follows:

Date: August 16, 2017  
Time: 10:00 a.m.  
Location: Board of Chiropractic Examiners  
1951 W. Camelback Rd., Suite 330  
Phoenix, AZ 85015

The rulemaking record will close on Friday, August 18, 2017 at 5:00 p.m.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules do not require a permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

There is no applicable federal law regarding Chiropractors, Chiropractic Business Entities, "Percutaneous Therapy" Technique, or other subjects of the rules.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

**ARTICLE 5. LICENSES**

Section  
R4-7-502. Procedures for Processing Initial License Applications  
R4-7-503. Renewal License: Issuance, Reinstatement

**ARTICLE 6. ACUPUNCTURE CERTIFICATION SPECIALITY CERTIFICATIONS**

Section  
R4-7-602. ~~Repealed~~ Percutaneous Therapy as Applied to Chiropractic

**ARTICLE 8. CONTINUING EDUCATION**

Section  
R4-7-801. Continuing Education Requirements



### ARTICLE 13. CHARGES

Section  
R4-7-1301. Additional Charges

### ARTICLE 14. BUSINESS ENTITIES

Section  
R4-7-1401. Application for Business Entity; Qualifications of ~~applicant~~ Applicant; ~~fee~~ Fee; ~~background investigations~~  
R4-7-1403. Procedures for Processing Initial Registration Applications  
R4-7-1404. Business Entity Registration Renewal: Issuance, Reinstatement

### ARTICLE 5. LICENSES

#### R4-7-502. Procedures for Processing Initial License Applications

- A. An applicant may obtain a license application package at the Board Office on business days, from the Board website, or by requesting that the Board mail the application to an address specified by the applicant. An applicant shall pay the Board a non-refundable \$10 fee for each license application package.
- B. A completed license application package shall be submitted to the Board office on business days. The Board shall deem the license application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office;
- C. To complete a license application package, an applicant shall provide the following information and documentation:
1. Two identical passport quality photographs, ~~measuring three inches by four inches~~, showing the applicant's full front face ~~as the applicant will appear at the time of the examination~~ and a description of identifying characteristics, if any;
  2. The applicant's full current name and any former names;
  3. The applicant's current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office address or addresses for the past five years;
  4. The type of license, for which application is made;
  5. All applicable fees, ~~required by A.R.S. §§ 32-921(D) and (E) and 32-922.02(E)~~.
  6. A record of education requirements described in A.R.S. § 32-921(B) including the applicant's chiropractic college transcript and the applicant's certificate of attainment of passing scores for Parts I, II, III, and IV of the examination conducted by the National Board of Chiropractic Examiners;
  7. Any record of being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge within the last 12 months. The applicant shall submit any record of being refused a license to practice chiropractic or any other health care profession in this or any other state, and any record of a formal sanction taken against the applicant's license in this or any other state;
  8. A completed fingerprint card;
  9. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other state or jurisdiction;
  10. The name and professional designation of the owner or owners of the clinic or office at which the applicant will be employed, if applicable;
  11. The applicant's Social Security number;
  12. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant;
  13. A score of 75% or higher on the Arizona Jurisprudence Examination. The applicant shall not sit for the Arizona Jurisprudence Examination until the application package is otherwise complete.
- D. Within 25 business days of receiving a license application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing. If the Board does not provide notice to the applicant, the license application package shall be deemed complete after the passage of 25 business days.
- E. An applicant with an incomplete license application package shall supply the missing information within 60 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 60 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- F. If an applicant fails to submit a complete license application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
- G. After receiving all missing information as specified in subsection (E), the Board shall notify the applicant that the license application package is complete.
- H. The Board shall render a licensing decision no later than 120 business days after receiving a completed license application package. The Board shall deem a license application package to be complete on the postmarked date of the notice advising the applicant that the package is complete.
- I. An applicant seeking initial licensure by reciprocity under A.R.S. § 32-922.01 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part IV of the examination conducted by the National Board of Chiropractic Examiners.



**J.** An applicant seeking initial licensure by endorsement under A.R.S. § 32-922.03 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part III & IV of the examination conducted by the National Board of Chiropractic Examiners.

**J-K.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial licenses:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 120 business days.
3. Overall time-frame: 145 business days.

**R4-7-503. Renewal License: Issuance, Reinstatement**

**A.** ~~At least 30 days before a renewal application and renewal fee are due, the Executive Director of the Board shall send by first class mail to a licensee at the licensee's address of record, a renewal application and notice. Under A.R.S. §32-923(B), an individual licensed under A.R.S. Title 32, Chapter 8, shall renew the license every year before January 1.~~

**B.** The licensee renewal application shall be returned to the Board office on a business day. The date of receipt shall be the postmarked date or the date the licensee hand delivers the license renewal application.

**C.** To complete a license renewal application, a licensee shall provide the following information and documentation:

1. The licensee's full name;
2. The licensee's current home and office addresses, current home and all office phone numbers, and all current office fax numbers;
3. The name and professional designation of the owner or owners of the clinic or office at which the licensee is employed;
4. The licensee's Social Security number;
5. A record of any professional disciplinary investigation or sanction taken against the licensee by a licensing board since the licensee last applied for renewal of a license in this or any other state;
6. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or felony since the licensee last applied for renewal of the license;
7. The renewal fee ~~of \$170.00~~ as required by A.R.S. § 32-923;
8. Attestation of compliance with the continuing education requirements under A.R.S. § 32-931 and R4-7-801. The licensee shall attest to compliance with continuing education requirements by documenting, on the renewal form, the date or dates the continuing education course was attended, the number of hours of continuing education completed, the qualifying course topic or topics, and the name of the accredited college or university with whom the course instructor is affiliated with as faculty. If the course does not meet the requirements under A.R.S. § 32-931 and R4-7-801, but has been approved by the Board, the applicant shall provide the continuing education course approval number issued by the Board instead of the name of the affiliated college or university;
9. The licensee's signature attesting to the truthfulness of the information provided by the licensee.

**D.** In accordance with A.R.S. § 32-923(C), the Board shall automatically suspend a license if the licensee does not submit a completed application for renewal before January 1 of each calendar year. The Board shall send written notice of the license suspension to the licensee on or before January 20.

**E.** The Board shall reinstate a suspended license if the licensee pays the annual license renewal fee, pays an additional fee of ~~\$100~~ \$200 as required by A.R.S. § 32-923(D), and submits a completed license renewal application between January 1, and March 31 of the calendar year for which the license renewal is made.

**F.** On or after ~~April~~ July 1 of the calendar year for which a license renewal application was to be made, an individual who wishes to have a suspended license reinstated shall apply for reinstatement in accordance with A.R.S. § 32-923(D).

**G.** An application for reinstatement of license ~~may be obtained at the Board office on business days or by requesting that the Board mail one to an address specified by the applicant shall be made on a form and in a manner prescribed by the Board.~~

**H.** A completed application for reinstatement of a license shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a license received on the date that the Board stamps on the application as the date it is delivered to the Board office.

**I.** To complete an application for reinstatement of license, an applicant shall provide the following information and documentation:

1. The applicant's full current name, suspended license number, and certification number if a specialty certification was held by the licensee;
2. The applicant's current home and all office addresses, current home and all office phone numbers, and all current office fax numbers;
3. The name and professional designation of the owner or owners of the office or clinic at which the applicant will be employed;
4. The applicant's Social Security number;
5. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions;
6. A list of required continuing education courses completed and certification of course completion;
7. A record of any professional disciplinary investigation or sanction initiated since the applicant last applied to renew the license;
8. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or a felony since the date of the applicant's last application for licensure;
9. The applicant's notarized signature attesting to the truthfulness of the information provided by the applicant.

**J.** The Board shall process a license reinstatement application in accordance with R4-7502(D) through (J). The Board shall deem the application received on the date that the Board stamps on the application as the date the application is delivered to the Board Office.

**K.** The Board shall reinstate or renew a license if:

1. The applicant or licensee has complied with the requirements of this Chapter and A.R.S. § 32-900 et seq.;
2. The applicant or licensee has not had any professional disciplinary sanction taken against the applicant's or licensee's license by a licensing board since the last application for licensure;



3. The applicant or licensee has not been convicted of, pled guilty to, or pled nolo contendere to a misdemeanor or a felony since the last application for licensure.
- L. If the provisions of subsection (K) are satisfied, the Board shall issue a license renewal certificate on or before February 1, of each year. The license renewal certificate shall serve as notice that the renewal application is complete and approved.
- M. If there is reason to believe that the provisions of subsection (K) have not been satisfied or that possible grounds for denying the renewal or reinstatement application exist, the Board shall notify the applicant of this possibility within 25 business days of the date that the application is received at the Board office.
- N. An applicant who is so notified that renewal or reinstatement may be denied may provide a written response and shall submit any documentation as required through written notice by the Board within 60 calendar days from the date of the Board's notice. An applicant who is unable to supply the required documentation within 60 calendar days may submit a written request to the Board for an extension of time in which to provide the required documentation. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of the required documentation, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- O. If an applicant fails to submit required documentation within the time permitted, the Board shall issue a notice of intent to deny the renewal application or reinstatement application.
- P. The Board shall make a licensing decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the date the documentation is delivered to the Board's office.
- Q. For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for renewal or reinstatement of licenses:
  1. Administrative completeness review time-frame: 25 business days.
  2. Substantive review time-frame: 70 business days.
  3. Overall time-frame: 95 business days.

#### **ARTICLE 6. ACUPUNCTURE CERTIFICATION SPECIALTY CERTIFICATIONS**

##### **R4-7-602. ~~Repealed~~ Percutaneous Therapy as Applied to Chiropractic**

- A.** “Percutaneous Therapy” means a skilled procedure performed by a Chiropractic Physician that uses a filiform needle to penetrate the skin and produce changes to underlying neural, muscular and other biologic tissues for the evaluation and management of neuromusculoskeletal conditions.
- B.** “Percutaneous Therapy” includes the use of electrified needles.
- C.** Effective January 1, 2018, A Chiropractic Physician, who wishes to perform the Percutaneous Therapy procedure, shall have met the qualifications established in paragraph (D) before providing “Percutaneous Therapy.”
- D.** A Chiropractic Physician offering to provide or providing “Percutaneous Therapy” procedure or procedures shall provide documented proof of compliance with the qualifications to the Board within 30 days of completion of the course content in subsections (G) through (J) or with 30 days of initial licensure as a chiropractic physician in Arizona.
- E.** An application for review and approval of a chiropractic physician offering to provide “Percutaneous Therapy” shall be made on a form and in a matter prescribed by the Board. An applicant shall pay the Board a non-refundable \$50 fee for each application package.
- F.** An application for approval of a “Percutaneous Therapy” course shall comply with R4-7-801(E).
- G.** The course content shall be approved by one or more of the following entities prior to the course or courses being completed by the Chiropractic Physician.
  1. State of Arizona Board of Chiropractic Examiners
  2. American Chiropractic Association
  3. The Federation of Chiropractic Licensing Boards
  4. International Chiropractic Association
  5. Providers of Approved Continuing Education (PACE)
  6. American Medical Association
  7. American Osteopathic Association
  8. Accreditation Council for Continuing Medical Education (ACCME)
- H.** The course content shall include the following components of education and training:
  1. Sterile Needle procedures to include either the U.S. Centers for Disease Control and Prevention, or The U.S. Occupational Safety and Health Administration
  2. Anatomical Review
  3. Blood Borne Pathogens
  4. Indications and Contraindication for “Percutaneous Therapy”
- I.** The course content required of this section shall total a minimum of 24 in-person contact hours of education.
- J.** At the request of a licensee, the Board may:
  1. Review coursework completed prior to January 1, 2018 for approval.
  2. Waive some or all of the hours required by subsection 4, if the licensee presents satisfactory proof of completing course work that constitutes adequate training of “Percutaneous Therapy” or of the components of education and training require for “Percutaneous Therapy”.
  3. Determine the licensee has received adequate training to be eligible to perform “Percutaneous Therapy.”
  4. Determine that a licensee who has been issued an Acupuncture certification is qualified to perform “Percutaneous Therapy”.
- K.** The Standard of Care of the “Percutaneous Therapy” procedure includes, but is not limited to the Following:



- 1. “Percutaneous Therapy” cannot be delegated to any assistive personnel.
- 2. Consent & Documentation for Treatment shall be maintained in accordance with R4-7-101(1) and R4-7-902(5) & (6).
- L.** The Board may upon its own motion or on receipt of a complaint may withdraw its approval for a licensee to provide “Percutaneous Therapy” or it may withdraw its approval of a “Percutaneous Therapy” course.
- M.** The Board shall keep a register of licensees who have been approved to provide “Percutaneous Therapy”.

**ARTICLE 8. CONTINUING EDUCATION**

**R4-7-801. Continuing Education Requirements**

- A.** To be eligible to renew a license, a licensee shall complete 12 credits of continuing education between January 1 and December 31 of each year, and document compliance with continuing education requirements on the license renewal application as required by R4-7-503(C). Continuing education credit shall be given for a minimum of fifty minutes of continuous study for each class hour. No credit shall be allowed for breaks or for time expended for study outside of the classroom.
- B.** Basic requirements – The primary consideration in determining whether or not a specific course qualifies as acceptable continuing education is that it must be a formal program of learning which will contribute directly to the professional competence of a licensee in the practice of chiropractic. Each course shall be on subjects of clinical benefit to the consumer of chiropractic services.
  - 1. The content of the course, seminar or workshop must be recognized by reputable authorities as having validity, and must conform to the scope of practice for assessment, treatment and diagnosis as authorized under A.R.S. § 32-925 and A.R.S. § 32-922.02.
  - 2. Instructors shall be qualified by education and/ or experience to provide instruction in the relevant subject matter.
  - 3. Each licensee is responsible for determining in advance that the course which he or she attends qualifies for continuing education credit under this Article.
- C.** A licensee shall only obtain continuing education credit by:
  - 1. Attending a course, (which includes a seminar or workshop), through a provider and on a subjects that have been pre-approved by the Board.
  - 2. Participating in the development of, or proctoring the National Board of Chiropractic Examiners (NBCE) examinations. Continuing education credits earned in this manner are calculated as one credit hour for each hour of participation in the development of the NBCE examination for a maximum credit of eight hours per year, and one credit hour for each hour proctoring the NBCE exam for a total of eight hours per year. A licensee shall obtain a certificate of participation from the National Board of Chiropractic Examiners to verify compliance with this provision.
  - 3. By teaching a post-graduate course that has been pre-approved by the Board for continuing education credit under this Section as a faculty member of a college or university that is accredited by or is in good standing with the Council on Chiropractic Education or is accredited by an accrediting agency recognized by the United States Department of Education or the Private Postsecondary Education Board during the renewal year. Continuing education credits earned in this manner are calculated as one credit of continuing education for each hour of post-graduate course instruction. A maximum of six credits of continuing education credit may be earned in this manner annually.
  - 4. By completing a post-graduate mediated instruction or programmed learning course pre-approved by the Board through an accredited college or university that meets the requirements of A.R.S. § 32-931(B). Mediated instruction and programmed learning refers to learning transmitted by intermediate mechanisms such as webinar or other internet delivered courses that are structured to confirm 50 minutes of continuous instruction for each credit hour received. A licensee shall obtain a certificate of program completion from the accredited college or university to verify compliance with this provision.
- D.** The following are predetermined to meet Board approval as providers for continuing education. Additional approval is not required, nor should it be expected. An application submitted for a course that falls under this subsection shall be returned to the applicant without a review and subsection (E) does not apply. Coursework provided by these entities is approved as meeting continuing education requirements only for those subjects listed in subsections (J) and (K) of this Section. Preapproval does not include mediated instruction or programmed learning courses.
  - 1. A college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a), the American Chiropractic Association and the International Chiropractors Association, with qualified instructors and that provide courses that meet the subject requirements under subsections (J) or (K).
  - 2. CPR training provided or sponsored by the American Heart Association, the American Red Cross, or an entity that meets equivalent standards of the American Heart Association and the American Red Cross. A maximum of four credits of continuing education credit may be earned in this manner annually.
  - 3. Participation in the development of or proctoring the NBCE examinations.
- E.** Prior approval is required for all course providers not mentioned in subsection (D) and for all mediated instruction or programmed learning courses regardless of subsection (D). A provider applying for approval of a continuing education course shall submit a complete application to the Board at least 60 days prior to the anticipated initial date of the course if submitted by internet, or 75 days if provided in hard copy form. The Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing and the applicant must submit the missing information within 10 days of the notice. The Board will not approve a course if a complete application has not been submitted at least 15 business days prior to the initial date of the course identified in the initial application. If the applicant changes the initial date of the course or the course content or the instructors, it shall be considered a new application. A complete application shall include:
  - 1. The name, dates, and locations of the course.
  - 2. The number of hours requested for approval.
  - 3. The subjects of the course, broken down by the specific time of instruction in/of each subject.
  - 4. A course description including the content, explicit written objectives identifying expected learner outcomes for each section of the course and teaching method (i.e. lecture, discussion, PowerPoint, internet, webinar).



5. A detailed, hour by hour syllabus identifying the subject of instruction for each hour, with the instructor for each section identified. If less than an hour is dedicated to a subject, the syllabus shall identify the number of minutes dedicated to instruction on that subject.
  6. A resume or curriculum vitae for each instructor and an attestation of the following:
    - a. Licenses for all instructors are currently in good standing.
    - b. No instructor has had a license placed on probation or restricted within the past five years in this or any other jurisdiction.
    - c. No instructor has ever had a license suspended or surrendered for unprofessional conduct or revoked in this or any other jurisdiction.
    - d. No instructor has had a license application or renewal denied for unprofessional conduct.
    - e. No instructor has been convicted of a misdemeanor involving moral turpitude or a felony in this or any other jurisdiction.
  7. Documentation of license in good standing for each instructor for each state in which the instructor has or currently holds a license, if applicable. If an instructor is currently under investigation by a regulatory agency or is under investigation for, or been charged with, a criminal offence, the applicant shall disclose the investigation or charge and shall provide all relevant records.
  8. One letter of reference for each course instructor from a person familiar with the instructor's qualifications as an instructor and education and/or experience in the relevant subject.
  9. Identification of a sponsor, if applicable, and disclosure of any connection between the provider and/or instructor and/or sponsor of any commercial relationship and/or any external entity giving financial support to the course. If the course does have a sponsor, a completed sponsor/program provider agreement for continuing education, signed and notarized by a responsible party must be provided with the application.
  10. Documentation of the method by which attendance will be monitored, confirmed and documented.
  11. The name and contact information for the attendance certifying officer with an attestation that the certifying officer is supervised by the applicant provider and a description of the supervision method employed to confirm that the certifying officer is performing the duty of monitoring and confirming attendance.
  12. Attestation that each course hour consists of no less than 50 minutes of continuous instruction and that credit is not provided for breaks.
  13. The non-refundable fee required under R4-7-1301 for each course, whether individual or included in a program of multiple courses.
  14. The name, address, telephone number, fax number and e-mail of a contact person.
  15. Any other information required or requested by the Board.
  16. If the course is a mediated instruction or programmed learning course, a detailed description of the method used to confirm that the participant was engaged in 50 minutes of continuous instruction for each credit hour awarded.
  17. The Board may require that the applicant provide additional information in support of the application if the course qualifications are not clearly demonstrated through the materials provided.
  18. At the request of a provider, the Board may review courses for retroactive approval and waive the requirement of 60 days, if the following requirements are met:
    - a. The provider submits an application for retroactive course approval.
    - b. Pays the nonrefundable retroactive application fee of \$50.00.
    - c. The course was provided no more than 12 months prior to the application being submitted.
    - d. Meets all other requirements of this section.
- F. The Board shall approve a continuing education course if the applicant has submitted a complete application to the Board's satisfaction within the time-frame required by this chapter and has demonstrated the following:
1. The course complies with this Chapter.
  2. The course instructor is faculty at an accredited college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a) or demonstrates equivalent qualifications through postgraduate study and experience teaching postgraduate coursework. An instructor must:
    - a. Hold an applicable license in good standing.
    - b. Shall not have had a license placed on probation within the last five years.
    - c. Shall not ever have had a license suspended, surrendered for unprofessional conduct or revoked.
    - d. Shall not have had a license application or renewal denied for unprofessional conduct.
    - e. Shall not or been convicted of a felony in this or any other jurisdiction.
  3. The course instructor is qualified by education and experience to provide instruction in the relevant subject matter.
  4. The subject of the course qualifies under subsections (D)(2) and (3), (J) and (K).
  5. The course demonstrates attendance and/or monitoring procedures. Monitoring procedures must provide confirmation that a licensee was engaged in 50 minutes of continuous study for each credit hour.
- G. The Board shall not approve a continuing education course if the applicant fails to submit a complete application within the time-frame required by this Chapter or if:
1. The course does not qualify under this Chapter.
  2. The course subject does not qualify for continuing education credit under subsections (D)(2) and (3), (J) and (K).
  3. The instructor's does not qualify as per subsection (F)(2).
  4. The instructor's references do not support the qualifications of the instructor as per subsection (F).
  5. The course primary focus is to promote a product or service.
  6. The course requires participants to purchase a product or service.
  7. The course has no significant relationship to the assessment, diagnosis or treatment of patients within the scope of practice of chiropractic as defined under A.R.S. §§ 32-925 and 32-922.02.
  8. The content cannot be verified.



9. The course refutes generally accepted medical care and treatment and/or instructs participants to encourage patients to stop taking medication and/or stops participating in generally accepted medical care or fails to qualify under subsection (K).
- H.** A course approved by the Board pursuant to subsections (E) and (F) shall be issued an approval number. Once approved, a course provider shall:
  1. Provide course attendees with a certificate confirming course participation. The certificate shall: a.) include the name of the college or university through which the course was completed, or the course approval code issued by the Board, if applicable, b.) the name and Arizona license number of the attendee, c.) the name of the course provider, the course subject matter, d.) the name of the course if different than the subject matter listed, e.) the date and location of the course, and the number of hours of continuing education completed.
  2. Maintain a list of all course attendees for a minimum of five years after each date that the course is held, and shall provide a copy of the list to the board within 10 days of a written request to do so.
  3. Maintain a copy of the course syllabus and stated learning objectives, a list of instructors and documentation of the name, location and date of the course for a minimum of five years and shall provide the Board with a copy these materials within 10 days of a written request to do so.
  4. Monitor course attendance by each attendee in a manner that confirms that the attendee was present and participating in the course for a continuous 50 minutes for each hour of continuing education credited.
  5. Notify the Board immediately of concerns or problems that may arise regarding the approved course, to include discipline being imposed on the license of an instructor or an instructor being convicted of a criminal offense.
  6. Reapply for Board approval every two years no later than the first day of the month in which the course was initially approved, and every time the subject of the course changes and/or there is a change in instructors that does not include an instructor already approved by the Board. Failure to reapply as per this subsection shall disqualify the course for ongoing continuing education credit.
  7. Not represent that the course is sanctioned or promoted by the state of Arizona Board of Chiropractic Examiners. The provider may state that the course meets the continuing education requirements as per A.R.S. § 32-931. If the course has been directly approved by the Board, the provider may display the Board's course approval number.
- I.** The Board may monitor a continuing education provider's compliance with continuing education statutes and rules as follows:
  1. The Board may request any or all documentation as per Section (H) of this rule from a board-approved Continuing education provider for any course registered for license renewal to ensure compliance with this rule.
  2. A representative of the Board may attend any approved continuing education course for the purpose of verifying the content of the program and ensuring compliance with the Board's continuing education rules at no charge to the Board representative.
  3. If the Board finds that a course or provider is not compliant with the Continuing statutes or rules, has misrepresented course content or instructors in an application, failed to obtain new approval for a course with a change in subject or instructor or failed to pay the course fee, the Board may withdraw its approval for continuing credit for the course and/or the provider. The withdrawal of approval shall be effective upon written notification to the provider's contact of record by the Board.
  4. The Board shall notify a provider that it will consider withdrawal of course approval and provide the date, time and location of the meeting at which the matter will be discussed and possible action taken.
  5. If approval is withdrawn, the Board shall notify the provider of the reasons for withdrawal of approval.
  6. The provider shall notify all Arizona licensees who attended the course that any course hours obtained through the course cannot be used for continuing education credit of license renewal in the State of Arizona. If a provider fails to provide appropriate notice to Arizona licensed attendees, within ten business days of written notice from the Board that course approval has been withdrawn, that provider shall not be considered for approval of continuing education credit in the future. The notice to the Arizona licensed attendees must be made by certified mail in order to establish documentation that the requirement was met.
- J.** Course subjects approved for continuing education for renewal of an Arizona chiropractic license are:
  1. Adjusting techniques;
  2. Spinal analysis;
  3. Physical medicine modalities and therapeutic procedures as defined in A.R.S. § 32-900(7) and (8);
  4. Record keeping and documentation;
  5. Ethics;
  6. CPR;
  7. Public health;
  8. Communicable diseases;
  9. Sexual boundaries;
  10. Emergency procedures;
  11. Acupuncture;
  12. Nutrition;
  13. Examination;
  14. Assessment and diagnostic procedures to include physical, orthopedic, neurological procedures;
  15. Radiographic technique;
  16. Diagnostic imaging and interpretation;
  17. Laser as permitted by law;
  18. Clinical laboratory procedures limited to urine collection, fingerpicks and venipuncture (not to be confused with evaluation of lab reports);
  19. Anatomy;
  20. Physiology;
  21. Bacteriology;
  22. Chiropractic orthopedics and neurology;



23. Chemistry;
  24. Pathology;
  25. Patient management;
  26. Evidence-based clinical interventions models;
  27. Symptomatology;
  28. Arizona jurisprudence; and;
  - ~~29. Participation in National Board of Chiropractic Examiners examination development or administration of examinations.~~
  - ~~29. Billing & Coding;~~
  - ~~30. Recognition of substance abuse in a patient and Substance Abuse and Mental Health Services Administration Topics; and;~~
  - ~~31. Participation in National Board of Chiropractic Examiners examination development or administration of examinations.~~
- K.** In addition to the subjects in subsections (A), (C), (D) and (J), courses for the purpose of recognizing, assessing and determining appropriate referral or collaborative treatment of complex conditions, including but not limited to cancer, autism, multiple sclerosis, diabetes, and developmental disorders, for the purpose of co-management of the patient's condition with qualified medical providers shall qualify for continuing education credit.
- L.** The following subjects shall not qualify for continuing education for the purpose of license renewal and shall not be approved by the Board:
- ~~1. Billing, coding;~~
  - ~~2-1. Malpractice defense;~~
  - ~~3-2. Practice management;~~
  - ~~4-3. Risk management;~~
  - ~~5-4. Promotion of a product or a service or a requirement that attendees purchase a product or service;~~
  - ~~6-5. Strategies to increase insurance payments;~~
  - ~~7-6. Administrative or economic aspects of a practice;~~
  - ~~8-7. Motivational courses;~~
  - ~~9-8. Legal courses other than pre-approved Board jurisprudence;~~
  - ~~10-9. Anti-aging;~~
  - ~~11-10. Hormone treatment;~~
  - ~~12-11. Aroma therapy;~~
  - ~~13-12. Stress management;~~
  - ~~14-13. Psychological treatment;~~
  - ~~15-14. HIPAA;~~
  - ~~16-15. Homeopathic practice that exceeds A.R.S. § 32-925;~~
  - ~~17-16. Professional or business meetings, speeches at luncheons, banquets, etc.;~~
  - ~~18-17. Subject matter that exceeds the assessment, diagnosis and treatment of patients within the scope of practice of chiropractic as defined in this Chapter;~~
  - ~~19-18. Any course without a significant relationship to the safe and effective practice of chiropractic under A.R.S. § 32-925 and A.R.S. § 32-922.02;~~
  - ~~20-19. And any course that involves a distance learning format or materials if the course has not been pre-approved by the board and issued a board approval number;~~
- M.** A licensee's compliance with subsections (A), and (C), shall include the following coursework in order to renew a license.
1. Each licensee shall complete a minimum of two hours of continuing education in recordkeeping for every even numbered year.
  2. Each person who is issued a new license to practice chiropractic in Arizona on or after January 1, 2013 is required to attend three hours of a single regularly scheduled Board meeting within the first year of residence in Arizona. The licensee cannot distribute the three hours of Board meeting attendance over two or more Board meetings. The licensee shall notify the Board in writing within ten days of moving to Arizona. The meeting attendance must be pre-scheduled and pre-approved by Board staff. Continuing education credit will not be awarded if the licensee is attending the meeting as a subject of an investigation or other Board review or if the licensee fails to properly schedule attendance as per this Section. This subsection does not pertain to any person who has had a license to practice chiropractic in Arizona issued prior to January 1, 2013.
- N.** The Board shall grant an extension of 90 days to comply with the continuing education requirements to a qualified licensee. To qualify for an extension, a licensee shall:
1. Timely file a license renewal application and renewal fee; and
  2. Submit a written request for an extension no later than December 1 of the current renewal year, including evidence of good cause why the continuing education requirements cannot be met by December 31 of the current renewal year.
- O.** The following reasons constitute good cause for the Board to grant an extension of time to comply with the continuing education requirements:
1. The licensee lived in a country where there was no accredited chiropractic college, or a college that meets the requirements of R4-7-702, for at least seven months during the year that the continuing education requirements are to be met;
  2. The licensee was in active military service for at least seven months during the year that the continuing education requirements are to be met; or
  3. The licensee was not able to complete the continuing education requirements because of a documented disability of the licensee or the licensee's spouse, child, or parent.
- P.** If the Board grants an extension of time to complete the required 12 hours of continuing education requirements, 12 hours of required continuing education credits obtained during the 90-day extension shall be applied to meet only the requirements for which the extension is granted. A licensee shall not report those 12 hours of continuing education credit earned during a 90-day extension for a subsequent renewal year.



ARTICLE 13. CHARGES

R4-7-1301. Additional Charges

- A. The Board shall collect charges for services as follows:
  1. Annual license renewal fee: \$170.00;
  2. Copies of public records: \$0.25 per page, with a minimum fee of \$2.00;
  3. Directories or labels: \$40.00;
  4. Annual subscription for meeting minutes: \$70.00;
  5. Agendas: \$25.00 for an annual subscription or \$2.00 per agenda;
  6. Recordings of Board meetings: \$5.00 per disc or tape;
  7. Lists of licensees, applicants, chiropractic assistants: \$0.05 per name, with a minimum fee of \$2.00;
  8. Hard copy credential verification: \$2.00 per name;
  9. Verification of license status: \$25.00;
  10. Continuing education course review for approval: \$50.00;
  11. Jurisprudence booklet: \$10.00;
  12. Duplicate renewal receipt: \$5.00;
  13. Duplicate ornamental license: \$20.00;
  14. Duplicate ornamental certificate: \$20.00; and
  15. Penalty for insufficient funds check submitted to Board as payment of fee or other charge: \$25.00.
- A. The Board shall collect charges for services as follows:
  1. Annual license renewal fee: \$225.00;
  2. Licensure by Examination & Reciprocity Application Fee: \$325.00
  3. Licensure by Endorsement Application Fee: \$500.00
  4. Specialties Certification Application Fee: \$125.00
  5. Issuance Fee: \$125.00
  6. Copies of public records: \$0.25 per page, with a minimum fee of \$2.00;
  7. Directories or labels: \$40.00;
  8. Annual subscription for meeting minutes: \$70.00;
  9. Agendas: \$25.00 for an annual subscription or \$2.00 per agenda;
  10. Recordings of Board meetings: \$5.00 per disc or tape;
  11. Lists of licensees, applicants, chiropractic assistants: \$0.05 per name, with a minimum fee of \$2.00;
  12. Hard copy credential verification: \$2.00 per name;
  13. Verification of license status: \$25.00;
  14. Continuing education course review for approval: \$50.00;
  15. Jurisprudence booklet: \$10.00;
  16. Renewal Receipt: \$5.00;
  17. Ornamental License: \$20.00;
  18. Ornamental Certificate: \$20.00; and
  19. Penalty for insufficient funds check submitted to Board as payment of fee or other charge: \$25.00.
- B. All charges are non-refundable, except if A.R.S. § 41-1077 applies.
- C. The fees in this Section pertain regardless of the method by which the document is delivered.

ARTICLE 14. BUSINESS ENTITIES

R4-7-1401. Application for Business Entity; Qualifications of ~~applicant~~ Applicant; ~~fee~~ Fee; ~~background investigations~~

- A. A business entity that wishes to operate a clinic, franchise, business, club, or any other entity which uses the services of a licensed doctor of chiropractic to provide a service, supervise the provision of services, act as clinical director or otherwise perform any function under a person’s chiropractic license (doctor of chiropractic) shall submit a complete application to the Board at least sixty days prior to the intended implementation of engaging the services of a licensed doctor of chiropractic. A business entity that uses the services of a doctor of chiropractic as defined in this subsection prior to the effective date of these rules shall submit a complete application to the Board no later than ten days from the effective date of these rules. A business entity shall not engage the services of a doctor of chiropractic as noted in this section until the Board has approved and issued the registration. The registration shall serve as a license for the purpose of compliance with this Chapter.
- B. “Owner, officer or director” means any person with a fiscal or an administrative interest in the business entity, regardless of whether the business is a for-profit or non-profit affiliation.
- C. To be eligible for business entity registration, the applicant owners, officers or directors shall:
  1. Be of good character and reputation.
  2. Have obtained a license or a permit to conduct a business under applicable law and jurisdiction.
- D. The Board may deny registration to a business entity if:
  1. The business entity fails to qualify for registration.
  2. An owner, an officer or a director has had a license to practice any profession refused, revoked, suspended, surrendered or restricted by a regulatory entity in this or any other jurisdiction for any act that constitutes unprofessional conduct pursuant to this Chapter.
  3. An owner, an officer or a director is currently under investigation by a regulatory entity in this or any other jurisdiction for an act that may constitute unprofessional conduct pursuant to this Chapter.
  4. An owner, an officer or a director has surrendered a license for an act that constitutes unprofessional conduct pursuant to this Chapter in this or any other jurisdiction.



5. An owner, an officer or a director has been convicted of criminal conduct that constitutes grounds for disciplinary action pursuant to this Chapter.
  6. The business entity allows or has allowed any person to practice chiropractic without a license or fails or failed to confirm that a person that practices chiropractic is properly licensed.
  7. The business entity allows or has allowed a person who is not a licensed doctor of chiropractic and who is not a chiropractic assistant to provide patient services according to this Chapter.
- E. The applicant shall pay to the Board a nonrefundable application fee of \$400.00.
- F. ~~In order to determine an applicant business entity's (applicant) eligibility for approval, the Board may require the business entity's owners, officers or directors to submit a full set of fingerprints to the Board. The Board shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section A.R.S. 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The Board shall charge each applicant a fee that is necessary to cover the cost of the investigation. The Board shall forward this fee to the department of public safety.~~

#### **R4-7-1403. Procedures for Processing Initial Registration Applications**

- A. An application for Business Entity Registration shall be made on a form and in a manner prescribed by the Board. ~~An applicant may obtain an application package at the Board Office on a business day, or by requesting that the Board send the application to an address specified by the applicant~~
- B. A completed business entity registration application package shall be submitted to the Board office on a business day. The Board shall deem the business entity application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office.
- C. To complete a business entity application package, an applicant shall provide the following information and documentation:
1. The full current name and any former names and title of any and all owners, officers or directors.
  2. The current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office addresses for the past five years for each owner, officer or director.
  3. The business name and the current addresses, phone numbers and fax numbers for each office, clinic or other setting where any service is performed, supervised or directed by a licensed doctor of chiropractic according to R4-7-1401(A) and this Chapter.
  4. The non-refundable application fee of four hundred dollars.
  5. The name and license number of each doctor of chiropractic employed with, contracted with, or otherwise affiliated with the business entity according to R4-7-1401(A) and this Chapter.
  6. ~~A completed fingerprint card for each owner, officer or director.~~
  7. ~~Copies of any and all contracts or any other agreement between the business entity and the doctor of chiropractic, to include employment or franchise contracts, agreements or equivalent.~~
  - 8-6. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge that has not been concluded.
  - 9-7. Any record of an owner, officer or director being refused a license to practice chiropractic or any other profession in this or any other jurisdiction, and any record of a disciplinary action taken against an owner, officer or director's license in this or any other jurisdiction.
  - 10-8. The social security number for each owner, officer, or director.
  - 11-9. A government issued photo identification confirming U.S. citizenship or legal presence in the United States for each owner, officer or director, or if those individuals reside outside of the United States, confirmation of legal authority to operate a business in the United States.
  - 12-10. A copy of the written protocol required by A.R.S. § 32-934(G).
  - 13-11. The name, phone number and address for a contact person.
  - 14-12. A notarized signature for each owner, officer or director attesting to the truthfulness of the information provided by the applicants. A stamped signature will not be accepted for the purposes of completing the application.
- D. Within 25 business days of receiving a business entity registration application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing.
- E. An applicant with an incomplete business entity registration application package shall supply the missing information within 30 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 30 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 30-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 30-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 30-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- F. If an applicant fails to submit a complete business entity registration application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become registered shall reapply pursuant to R4-7-1401 and R4-7-1403.
- G. After timely receipt of all missing information as specified in subsection (E), the Board shall notify the applicant that the application package is complete.
- H. The Board shall render a decision no later than 120 business days after receiving a completed registration application package. The Board shall deem a registration application package to be complete on the postmarked date of the notice advising the applicant that the package is complete.
- I. The Board shall approve the registration for a business entity that meets all of the following requirements:



1. Timely submits a complete application.
  2. The Board does not find grounds to deny the application under subsection R4-7-1401(D).
  3. Pays the original business entity prorated renewal fee of seventeen dollars per month from the first day of the month the business entity is registered through May 31 plus \$25 for each duplicate license issued by the Board for the purpose of compliance with R4-7-1402.
- J.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial registration:
1. Administrative completeness review time-frame: 25 business days.
  2. Substantive review time-frame: 120 business days.
  3. Overall time-frame: 145 business days.

**R4-7-1404. Business Entity Registration Renewal: Issuance, Reinstatement**

- A.** A business entity registration expires on ~~May 31~~ June 1 of each year.
- B.** ~~At least 30 days before a renewal application and renewal fee are due, the executive director of the Board shall send a business entity a renewal application and notice by first class mail to its address of record for the business entity contact person. Under A.R.S. §32-934(C), a Business Entity Registered under A.R.S. Title 32, Chapter 8, shall renew the registration every year before June 1.~~
- C.** The business entity registration renewal application shall be returned to the Board office on a business day. The Board shall deem the business entity registration renewal application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office.
- D.** To complete a registration renewal application, a business entity shall provide the following information and documentation:
1. The name of the business entity.
  2. The current addresses, phone numbers, and fax numbers for each facility requiring registration under this Chapter.
  3. Notice of any change of owners, officers or directors, to include any additions and/or deletions with the date of the change for each individual, and notice of any change in home address, office address and phone numbers for owners, officers or directors with the date of the change for each individual.
  4. The name and license number of each doctor of chiropractic employed with, contracted with, or otherwise affiliated with the business entity per Section R4-7-1401(A), to include any affiliation through a franchise.
  5. The record of any professional disciplinary investigation or action taken against an owner, officer or director in this or any other jurisdiction within the last 12 months.
  6. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, within the last 12 months and any record of an arrest, investigation, indictment within the last 12 months.
  7. A statement attesting that the contract or any other form of agreement with the doctors of chiropractic has not changed, or if the contract or agreement has changed, a copy of any new or amended contract or agreement.
  8. Report any change in the status of the business entity’s license or permit to own and operate a business in the State of Arizona.
  9. The renewal fee of \$200 plus a \$25 fee for each duplicate Board issued renewal certificate for the purpose of compliance with R4-7-1402. A business entity applying for renewal for the first time shall pay a prorated fee according to A.R.S. § 32-934(C).
  10. The name, address, phone number, fax number and email for a contact person.
  11. The original signature of the delegated contact person attesting to the truthfulness of the information provided by the business entity. All owners, officers or directors also remain responsible for the accuracy and truthfulness of the application. A stamped signature will not be accepted for the purpose of a complete application.
- E.** A business entity registration shall automatically expire if the business entity does not submit a completed application for renewal, the renewal fee and the fee for duplicate renewal certificates for the purpose of complying with R4-7-1402 before June 1 of each registration period. The Board shall send written notice to the business entity that its registration has expired on or before June 20. A business entity shall not use the services of a licensed doctor of chiropractic according to R4-7-1401(A) if the business entity’s registration has expired.
- F.** The Board shall reinstate an expired business entity registration if the business entity pays the annual renewal fee, the additional fee for duplicate certificates for the purpose of compliance with R4-7-1402, pays an additional non-refundable late fee of \$200 as required by A.R.S. § 32-934(C), and submits a completed renewal application between June 1, and ~~June~~ July 30 of the registration period for which the business entity registration renewal is made.
- G.** On or after ~~July~~ August 1 of the registration period for which a renewal application was to be made, a business entity that wishes to have an expired registration reinstated shall apply in accordance with subsection (L).
- H.** If the business entity fails to timely submit a complete business entity reinstatement application within 6 months of the date the registration expired, the business entity’s registration shall lapse. “Lapse” means that the business entity is no longer registered and cannot offer services per this Chapter.
- I.** A business entity that has had a registration lapse and that later wishes to become registered must apply as a new candidate pursuant to R4-7-1401 and R4-7-1403.
- J.** An application for reinstatement of business entity registration ~~may be obtained from the Board office on business days or by requesting that the Board send one to an address specified by the applicant. shall be made on a form and in a manner prescribed by the Board.~~
- K.** A completed application for reinstatement of a business entity registration shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a business entity registration received on the date that the Board stamps on the application as the date it is delivered to the Board office.
- L.** To complete an application for reinstatement of a registration, a business entity shall provide the following information and documentation:
1. The business entity’s name and expired registration number.
  2. The current addresses, phone numbers, and fax numbers for each facility requiring registration under this Chapter.
  3. The names, home addresses, office addresses and phone numbers for each owner, officer or director.



4. The name and license number of each doctor of chiropractic employed with, contracted with or otherwise affiliated with the business entity according to R4-7-1401(A) and this Chapter, to include franchises.
  5. The record of any professional disciplinary investigation or action taken against an owner, officer or director in this or any other jurisdiction.
  6. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, within the last 12 months and any record of an arrest, investigation, indictment, or charge within the last 12 months, to include new owners, officers or directors.
  7. A statement attesting that the contract or other agreement with the doctors of chiropractic has not changed, or if the contract or agreement has changed, a copy of the new or amended contract or agreement.
  8. Report any change in the status of the business entity's license or other permit to own and operate a business in the State of Arizona.
  9. The non-refundable renewal fee of \$200 and a \$25 fee for each Board issued duplicate renewal certificate for the purpose of compliance with R4-7-1402.
  10. The non-refundable late fee of \$200.
  11. The name, phone number, fax number and email for a contact person.
  12. The original signature of the delegated contact attesting to the truthfulness of the information provided by the business entity. All owners, officers or directors also remain responsible for the accuracy and truthfulness of on application. A stamped signature will not be accepted for the purpose of completing an application.
- M.** The Board shall process a business entity registration reinstatement application in accordance with R4-7-1403(D) through (G).
- N.** The Board shall reinstate or renew a business entity registration if:
1. The business entity has timely submitted a complete application and paid all fees.
  2. The business entity has complied with the requirements of this Chapter and A.R.S. § 32-900 et seq.
  3. The Board does not find grounds to deny the application under subsection (D).
  4. The business holds a current business license or other permit to own and operate the business in the State of Arizona.
- O.** If the provisions of subsection (N) are satisfied, the Board shall issue a business registration renewal certificate. The renewal certificate shall serve as notice that the renewal application is complete and approved.
- P.** The Board shall make a decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the date the documentation is delivered to the Board's office.
- Q.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for registration renewal or reinstatement of registration:
1. Administrative completeness review time-frame: 25 business days.
  2. Substantive review time-frame: 70 business days.
  3. Overall time-frame: 95 business days.

**NOTICE OF PROPOSED RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 10. BOARD OF COSMETOLOGY**

[R17-115]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R4-10-101	Amend
R4-10-104	Amend
R4-10-105	Amend
R4-10-107	Amend
R4-10-108	Amend
R4-10-110	Amend
R4-10-203	Amend
R4-10-204	Amend
R4-10-205	Amend
R4-10-206	Amend
R4-10-206.1	New Section
R4-10-208	Amend
R4-10-302	Amend
R4-10-304.1	New Section
R4-10-306	Amend
R4-10-403	Amend
R4-10-404	Amend

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 32-504(A)(1)  
 Implementing statute: A.R.S. §§ 32-501, 32-504, 32-512.01, 32-513, 32-517, 32-531, 32-532, 32-543, 32-551, 32-557, 32-572, and 32-574



**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 23 A.A.R. 1576, June 9, 2017

**4. The agency's contact person who can answer questions about the rulemaking:**

Name: Donna Aune  
Address: Board of Cosmetology  
1721 E. Broadway  
Tempe, AZ 85282-1611  
Telephone: (480) 784-4539  
Fax: (480) 784-4962  
E-mail: daune@azboc.gov  
Web site: www.azboc.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

Under Laws 2017, Chapter 12, the legislature added hairstylist as an occupation regulated by the Board, reduced the number of hours of training to become a cosmetology or aesthetics instructor, and required the Board to make rules necessary and proper to achieve this. In this rulemaking, the Board makes the required rules. An exemption from EO2017-02 was provided for this rulemaking by Mara Mellstrom, Policy Advisor in the Governor's office, in an email dated May 2, 2017.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:**

The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

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

Not applicable

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

The Board expects the rulemaking, which simply implements a statutory change made by the legislature, to have minimal economic or consumer impact. It is the legislature that produced economic and consumer impact by requiring the Board to regulate an additional occupation.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Donna Aune  
Address: Board of Cosmetology  
1721 E. Broadway  
Tempe, AZ 85282-1611  
Telephone: (480) 784-4539  
Fax: (480) 784-4962  
E-mail: daune@azboc.gov  
Web site: www.azboc.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding regarding the proposed rules will be held as follows:

Date: Monday, August 14, 2017  
Time: Noon  
Location: Board of Cosmetology  
1721 E. Broadway  
Tempe, AZ 85282-1611

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

There is no federal law directly applicable to the subject of this rulemaking. The U.S. Environmental Protection Agency requires certain disinfectants to be registered and this rulemaking requires licensees to use EPA-registered disinfectants.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.



**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
None

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 10. BOARD OF COSMETOLOGY**

**ARTICLE 1. GENERAL PROVISIONS**

- Section  
 R4-10-101. Definitions  
 R4-10-104. Application for License by Examination  
 R4-10-105. Application for License by Reciprocity  
 R4-10-107. License Renewal  
 R4-10-108. Pre-screening Review; Licensing Examination  
 R4-10-110. Reactivating an Inactive License

**ARTICLE 2. SCHOOLS**

- Section  
 R4-10-203. General School Requirements  
 R4-10-204. School Records  
 R4-10-205. Aesthetic School Requirements  
 R4-10-206. Cosmetology School Requirements  
R4-10-206.1. Hairstyling School Requirements  
 R4-10-208. Combined School Requirements

**ARTICLE 3. STUDENTS**

- Section  
 R4-10-302. Instructor Curriculum Required Hours  
R4-10-304.1. Hairstyling Curriculum Required 1000 Hours  
 R4-10-306. Curricula Hours

**ARTICLE 4. SALONS**

- Section  
 R4-10-403. Salon Requirements and Minimum Equipment  
 R4-10-404. Mobile Services

**ARTICLE 1. GENERAL PROVISIONS**

**R4-10-101. Definitions**

~~h~~ The definitions in A.R.S. §§ 32-501, 32-516, and 32-572 apply to this Chapter. Additionally, in this Chapter unless otherwise specified:

1. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
2. No change
3. No change
  - a. No change
  - b. No change
  - c. No change
4. No change
5. No change
  - a. No change
  - b. No change
6. "Certification of licensure" means the status of the license, signed by the administrator of the agency authorized to issue cosmetology, hairstyling, nail technician, aesthetics, or instructor licenses in the jurisdiction in which the applicant received a license, affixed with the agency's official seal.
7. "Clinic means the area where a student practices cosmetology, hairstyling, nail technology, or aesthetics on the general public for a fee.
8. No change
9. No change
10. No change
11. "Double bracing" means using a stable base of support and two points of contact for the hand while performing a procedure.



- 12. No change
- 13. “Graduation” or “graduated from a school” means ~~the~~ completion of the criteria established by a cosmetology, hairstyling, aesthetics, or nail technology school for the course in which the applicant was enrolled including ~~the~~ completion of the required curriculum hours.
- 14. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
- 15. No change
- 16. No change
- 17. ~~“Lab” means the area in which instruction is provided regarding demonstration, theory, and practice on models.~~
- 18-17. “Licensed in another state of the United States or foreign country” means:
  - a. A governmental regulatory agency in the state or country is authorized to examine, ~~for the~~ competency, ~~candidates of individuals~~ who graduate from a licensed cosmetology, hairstyling, nail technology, or aesthetics school, or instructors for these disciplines; and
  - b. The governmental regulatory agency issues licenses over which the state or country has regulatory and disciplinary jurisdiction ~~and monitors~~.
- 19-18.No change
- 20-19.No change
- 21-20.No change
- 22-21.No change
- 23-22.“Personal knowledge” means actual observation of an individual who practiced aesthetics, cosmetology, hairstyling, or nail technology in any state or country.
- 24-23.“Practice” means engaging in the profession of aesthetics, cosmetology, hairstyling, nail technology, or instructor.
- 25-24.No change
- 26-25.No change
- 27-26.“Tenth grade equivalency” means:
  - a. No change
  - b. Proof ~~that~~ the prospective student is ~~23~~ at least 18 years old. Satisfactory proof of ~~the prospective student’s~~ age is shown by a government-issued driver’s license or identification card, ~~a~~ birth certificate, or ~~a~~ passport; or
  - c. No change
- 28-27.“Transfer application,” as used in A.R.S. § 32-560, means an application that documents the transfer of a student from one Arizona cosmetology, hairstyling, nail technology, or aesthetics school to another and contains the student’s name, address, identification number, telephone number, and number of hours of instruction received.

**R4-10-104. Application for License by Examination**

- A. An applicant for an aesthetics, cosmetology, hairstyling, nail technology, or instructor license by examination shall submit to the Board:
  - 1. The ~~applicable fees~~ fee required for ~~the practical and written examination and an~~ initial personal license in R4-10-102; and
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. A statement of whether the applicant has ever had an aesthetics, cosmetology, hairstyling, nail technology, or instructor license suspended or revoked in any state of the United States or foreign country;
    - g. No change
    - h. No change
- B. In addition to complying with the requirements in subsection (A), an applicant for an aesthetics, cosmetology, hairstyling, or nail technology, ~~or cosmetology~~ license by examination shall:
  - 1. Comply with A.R.S. § 32-510, 32-511, ~~or 32-512,~~ or 32-512.01 by submitting documentation of 10th grade equivalency;
  - 2. Comply with A.R.S. § 32-510, 32-511, ~~or 32-512,~~ or 32-512.01 by submitting a copy of one of the following:
    - a. No change
    - b. No change
- C. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. Proof of attainment of ~~23~~ 18 years of age; or
    - e. No change
  - 2. No change
    - a. No change
    - b. No change
  - 3. No change



- a. No change
- b. No change
- c. No change
- d. No change
- e. No change

**R4-10-105. Application for License by Reciprocity**

An applicant for an aesthetics, cosmetology, hairstyling, nail technology, or instructor license by reciprocity shall submit the applicable fee required in R4-10-102 and all of the following to the Board:

1. No change
  - a. No change
  - b. No change
  - c. A statement of whether the applicant has ever had an aesthetics, cosmetology, hairstyling, nail technology, or instructor license suspended or revoked in any state of the United States or foreign country.
2. No change

**R4-10-107. License Renewal**

A. An aesthetician, cosmetologist, hairstylist, nail technician, or instructor licensee shall postmark or electronically submit an application for renewal to the Board on or before the licensee's birthday every two years.

1. No change
2. No change
  - a. No change
  - b. No change
  - c. No change

B. No change

1. No change
2. No change
  - a. No change
  - b. No change

**R4-10-108. Pre-screening Review; Licensing Examination**

A. A student planning to apply to the Board for licensure may, but is not required to, request that the Board complete a pre-screening review of whether the student is qualified to take the licensing examination. The student may request the pre-screening review before the student graduates from a ~~school licensed by the Board~~ school but the student shall not be issued an examination date until the student has completed a minimum of:

1. No change
2. 750 hours of hairstyling training.
- ~~2-3.~~ 500 hours of aesthetics or nail technician technology training, or
- ~~3-4.~~ 550 350 hours of cosmetology, hairstyling, aesthetics, or nail technology instructor training,
- ~~4.~~ 400 hours for aesthetics instructor training, or
- ~~5.~~ 250 hours of nail technician instructor training.

B. No change

C. No change

D. No change

E. No change

F. No change

G. No change

1. No change
2. No change
3. No change

H. No change

I. No change

J. No change

K. No change

L. No change

M. No change

1. No change
2. No change
3. No change

N. No change

1. No change
2. No change

**R4-10-110. Reactivating an Inactive License**

A. A cosmetology, hairstyling, nail technology, aesthetics, or instructor license that has been inactive for less than two years may be reactivated by paying the delinquent renewal fee.



- B. A cosmetology, hairstyling, nail technology, aesthetics, or instructor license that has been inactive for more than two years, but less than five years, may be reactivated by the inactive licensee paying the delinquent renewal fee and paying for and completing the infection protection class and law review class, offered by the Board.
- C. A cosmetology, hairstyling, nail technology, aesthetics, or instructor license that has been inactive for more than five years, but less than 10 years, may be reactivated by the inactive licensee if the licensee does all of the following:
  1. No change
  2. No change
  3. No change
  4. No change
- D. If a cosmetology, hairstyling, nail technology, aesthetics, or instructor license has been inactive for more than 10 years, the inactive licensee shall comply with all application requirements in R4-10-104 before practicing or teaching cosmetology in Arizona.

**ARTICLE 2. SCHOOLS**

**R4-10-203. General School Requirements**

- A. ~~Aesthetics~~ An aesthetics, cosmetology, hairstyling, ~~and or~~ nail technology ~~schools~~ school shall ~~comply~~ ensure the school complies with R4-10-112 and ~~have~~ has the following minimum facilities, equipment, supplies, and materials:
  1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
  9. No change
  10. No change
- B. No change
- C. No change
  1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
- D. No change
- E. A school shall not pay ~~a salary to~~ an enrolled student ~~other than a student instructor~~ for time while the student is taking classes or receiving credit.
- F. A licensed school may offer a postgraduate or advanced continuing education aesthetics, cosmetology, hairstyling, or nail technology course, ~~including theory and lab, to students currently enrolled in the school or~~ currently licensed individuals without a licensed instructor present and to students currently enrolled in the school with a licensed instructor present.
  1. No change
  2. No change
  3. No change
  4. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
- M. No change
  1. No change
  2. No change
  3. A student of aesthetics, cosmetology, hairstyling, ~~and or~~ nail technology ~~shall perform~~ performs services within the enrolled course, upon the public or fellow students, only in the presence of a licensed instructor and, except for shampooing, only after completing the basic training specified in R4-10-303, R4-10-304, R4-10-304.1, ~~and or~~ R4-10-305.
  4. No change
  5. No change
  6. No change
  7. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change



- e. No change

**R4-10-204. School Records**

- A. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. Proof of 10th grade equivalency for a student enrolled in an aesthetics, cosmetology, hairstyling, or nail technology course or proof of high school equivalency or ~~23~~ 18 years of age for a student enrolled in an instructor course;
    - d. No change
    - e. No change
    - f. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
    - g. A record of completed hours, including proof of cosmetology, hairstyling, nail technology, aesthetics, or instructor hours earned in another state or country and accepted by the school; and
  - 4. No change
- D. No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
    - h. No change
    - i. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
  - 10. No change
  - 11. No change
- E. No change

**R4-10-205. Aesthetic School Requirements**

- A. Schools that provide aesthetics 600-hour training for students, ~~500-hour~~ 350-hour training for instructors, or both, shall provide the following minimum facilities, equipment, supplies, and materials in addition to that required by R4-10-203 and R4-10-204:
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
- B. No change



- 1. No change
- 2. No change
- 3. No change
- 4. No change

**R4-10-206. Cosmetology School Requirements**

- A. Schools that provide cosmetology 1600-hour training for students, ~~650-hour~~ 350-hour training for instructors, or both, shall provide the following minimum facilities, equipment, supplies, and materials in addition to that specified by R4-10-203 and R4-10-204:
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
  - 10. No change
  - 11. No change
  - 12. No change
  - 13. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change

**R4-10-206.1. Hairstyling School Requirements**

- A. A school that provides hairstyling 1000-hour training for students, 350-hour training for instructors, or both, shall ensure the minimum facilities, equipment, supplies, and materials listed under R4-10-206(A)(1) through (6) are provided in addition to those specified under R4-10-203 and R4-10-204.
- B. A school shall ensure a nonreturnable student training kit, containing at least the following, is provided to each enrolled hairstyling student:
  - 1. Reasonable access to an online or standard textbook for professional hairstylists;
  - 2. Reasonable access to or a hard copy of the Arizona Board of Cosmetology statutes and rules;
  - 3. One disinfected, covered container to store disinfected tools and instruments as specified under R4-10-112; and
  - 4. A container for contaminated tools and instruments as specified under R4-10-112.

**R4-10-208. Combined School Requirements**

- A. A licensed school shall ensure that the following hours are taught to a student enrolled in the specific curriculum before allowing the student to graduate:
  - 1. No change
  - 2. Aesthetics instructor course – ~~500~~ 350 hours,
  - 3. No change
  - 4. Cosmetology instructor course – ~~650~~ 350 hours,
  - 5. Hairstyling course – 1000 hours,
  - 6. Hairstyling instructor course – 350 hours,
  - ~~5-7.~~ No change
  - ~~6-8.~~ No change
- B. A school that provides training in all of the above courses shall have the minimum records, facilities, equipment, supplies, and materials required ~~by~~ under:
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. R4-10-206, ~~and~~
  - 5. R4-10-206.1, and
  - ~~5-6.~~ No change
- C. A school that provides the curriculum specified in subsections (A)(3), ~~(A)(4), (A)(5), and through (A)(6)~~ (A)(8) only shall have the minimum records, facilities, equipment, supplies, and materials required ~~by~~ under:
  - 1. No change
  - 2. No change
  - 3. No change



- 4. R4-10-206.1, and
- ~~4.5.~~ No change
- D. A school that provides the curriculum specified in subsections (A)(1), ~~(A)(2), (A)(3), and through (A)(4)~~ (A)(6) only shall have the minimum records, facilities, equipment, supplies, and materials required ~~by~~ under:
  - 1. No change
  - 2. No change
  - 3. R4-10-205 except subsection (A)(1) is one work station for each two aesthetics students in attendance, ~~and~~
  - 4. R4-10-206, ~~and~~
  - 5. R4-10-206.1.
- E. A school that provides the curriculum specified in subsections (A)(1), (A)(2), ~~(A)(5)~~ (A)(7) and ~~(A)(6)~~ (A)(8) only shall have the minimum records, facilities, equipment, supplies, and material required ~~by~~ under:
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change

**ARTICLE 3. STUDENTS**

**R4-10-302. Instructor Curriculum Required Hours**

- A. ~~Each~~ A school shall ensure each student in an aesthetics, cosmetology, hairstyling, or nail technology instructor course ~~shall complete~~ completes ~~the number of 350 curriculum~~ hours listed in Table 1 that includes the following:

**Table 1: Instructor Curriculum (in hours)**

Subject	Aesthetics	Cosmetology	Nail-Technology
<del>1. Orientation and Arizona laws and rules</del>	<del>8</del>	<del>8</del>	<del>8</del>
<del>2. Theory, Preparation, and Practice Curriculum Development — Developing and Using Educational Aids — Presentation Principles (Practical and Written) — Classroom Management — Evaluation, Assessment, and Remediation Methods (Practical and Written) — Diversity in learning (including cultural) — Methods of Teaching — Professional Development (including ethics) — Alternative Learning [see subsection (B)]</del>	<del>405</del>	<del>405</del>	<del>270</del>
<del>3. Lab (clinic) oversight</del>	<del>87</del>	<del>237</del>	<del>72</del>
<del>4. Total Hours</del>	<del>500</del>	<del>650</del>	<del>350</del>

- 1. Orientation and Arizona Board of Cosmetology statutes and rules;
- 2. Theory, preparation, and practice curriculum development. This includes:
  - a. Developing and using educational aids;
  - b. Practical and written presentation principles;
  - c. Classroom management evaluation, assessment, and remediation methods;
  - d. Diversity in learning including cultural differences;
  - e. Methods of teaching;
  - f. Professional development including ethics; and
  - g. Alternative learning;
- 3. Classroom and clinic oversight.
- B. ~~Curriculum~~ A school may allow a student in an instructor course to satisfy, in part, curriculum hours ~~may be required under subsection (A)(2) satisfied in part by completing a course at an accredited college or university or an educational institution described in under R4-10-101(15) (14)(c) and (d);~~ Hours obtained under this subsection are subject to the following limits:
  - 1. ~~for no~~ No more than nine credit hours for cosmetology, hairstyling, or aesthetics; ~~and no~~
  - 2. No more than six credit hours for nail technology; ~~and encompassing the subjects listed under Theory, Preparation, and Practice in subsection (A) with each~~
  - 3. Each college credit hour ~~equating equals~~ equaling equals no more than 30 ~~of the~~ of the clock hours required under subsection (A).



- C. No change
- D. No change
- E. No change

**R4-10-304.1. Hairstyling Curriculum Required 1000 Hours**

- A. Each student in a hairstyling course shall complete the following curriculum:
  - 1. Theory of hairstyling, infection control, anatomy, diseases and disorders, and Arizona Board of Cosmetology statutes and rules; and
  - 2. Clinical and classroom instruction in hairstyling including theory that involves hair:
    - a. Principles and practices of infection control and safety;
    - b. Recognition of diseases and the treatment of disorders of the hair and scalp;
    - c. Morphology and treatment of hair;
    - d. Interpersonal skills and professional ethics;
    - e. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
    - f. Hairstyling machines, tools, and instruments and their uses;
    - g. Chemical texturizing;
    - h. Changing existing hair color;
    - i. Hair and scalp care;
    - j. Fundamentals of hairstyling including braiding and extensions;
    - k. Neck and scalp massage and manipulations;
    - l. Hair cutting fundamentals;
    - m. Clinical and classroom practice that includes hair;
    - n. Alternative hair technology;
    - o. Client pre- and post-service consultation, documentation, and analysis;
    - p. Hairstyling technology; and
    - q. Required industry standards and ecology, including monitor duties.
- B. A school shall not receive remuneration for a hairstyling student performing clinical services, except shampooing, for the public until the student has received at least 300 hours of hairstyling training; and
- C. A school shall ensure each student is evaluated for progress and suggestions are provided to the student for remediating deficiencies.

**R4-10-306. Curricula Hours**

- A. ~~Hours~~ A school shall ensure hours of training received in an aesthetics, cosmetology, hairstyling, or nail technology course ~~do are~~ not apply applied toward receiving hours required to obtain an instructor’s license.
- B. ~~Hours~~ A school shall ensure hours of training received in an instructor course ~~do are~~ not apply applied toward receiving hours required to obtain an aesthetician, cosmetologist, hairstylist, or nail technician license. ~~But~~ Hours received in an instructor course may apply applied toward hours required to reactivate of reactivate an aesthetics, cosmetology, hairstyling, or nail technology license if the instructor hours are received after inactive status occurs.
- C. ~~The~~ When evaluating an application for licensure, the Board shall allow the following hours may to apply toward licensing:
  - 1. No change
  - 2. No change
  - 3. 100% of the hours of ~~combined~~ training received in an a combined aesthetics course and a nail technology course toward a ~~cosmetology cosmetologist~~ license but the combined total shall not exceed to a maximum of 600 hours;
  - 4. 100% of the hours of training received in a hairstyling course toward a cosmetologist license;
  - 5. 100% of the hours of training received in a cosmetology course toward a hairstylist license;
  - ~~4-6.~~ No change
  - ~~5-7.~~ No change
  - ~~6-8.~~ 33% of the hours of training received in a nail technology course toward an ~~aesthetics~~ aesthetician license;
  - ~~7-9.~~ 66% of the hours of training received in an aesthetics course toward a nail ~~technology~~ technologist license;
  - ~~8-10.~~ No change
  - ~~9-11.~~ No change
  - ~~10-12.~~ 100% of the hours of training received by a licensed cosmetologist in a nail technology instructor course toward an aesthetics instructor ~~course; however, the~~ license. The Board shall require the remaining required hours needed for an aesthetics instructor license to ~~shall be received~~ obtained in an aesthetics or cosmetology school instructor course;
  - ~~11-13.~~ 100% of the hours of training received by a licensed cosmetologist in a nail technology instructor course toward a cosmetology instructor ~~course; however, the~~ license. The Board shall require the remaining required hours needed for a cosmetology instructor license to ~~shall be received~~ obtained in a cosmetology school instructor course;
  - ~~12-14.~~ 100% of the hours of training received by a licensed cosmetologist in an aesthetics instructor course toward a cosmetology instructor ~~course; however, the~~ license. The Board shall require the remaining required hours needed for a cosmetology instructor license to ~~shall be received~~ obtained in a cosmetology school instructor course;
  - ~~13-15.~~ 100% of the hours of training received in a barber instructor course toward a cosmetology instructor ~~course; however, the~~ license. The Board shall require the remaining required hours needed for a cosmetology instructor license to ~~shall be received~~ obtained in a cosmetology school instructor course. ~~One~~ For the purpose of qualifying for the cosmetology instructor examination specified under A.R.S. § 32-531, the Board shall accept one year of licensed barber experience is the same as one year of licensed cosmetology experience for the purpose of qualifying for the cosmetology instructor examination specified by A.R.S. § 32-531; and
  - ~~14-16.~~ No change



- D. ~~At the completion of~~ A school shall ensure that when a student completes a course of instruction, the cumulative hours for ~~students~~ the student shall equal, at a minimum, ~~conform with R4-10-301, R4-10-302, R4-10-303, R4-10-304, R4-10-305, and R4-10-306~~ those specified in this Article, as applicable.
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
  - 1. No change
  - 2. No change
- J. No change
  - 1. No change
  - 2. No change

**ARTICLE 4. SALONS**

**R4-10-403. Salon Requirements and Minimum Equipment**

- A. No change
- B. No change
- C. ~~Each~~ A salon shall ~~have~~ ensure the salon has:
  - 1. No change
  - 2. If the salon is a cosmetology or hairstyling salon, ~~a minimum of at least~~ one shampoo bowl and one hair dryer, ~~which that~~ may be a blow dryer, ~~and if, and~~
  - 3. If the salon is an aesthetics or nail technology salon, ~~a minimum of at least~~ one sink in addition to the restroom ~~or and~~ dispensary sink sinks.
- D. ~~Aestheticians~~ A salon shall ensure aestheticians, cosmetologists, hairstylists, and nail technicians ~~shall~~ have enough equipment, materials, supplies, tools, and instruments to provide services, ensure control infection, ~~control at all times and disinfection~~ disinfect between clients.

**R4-10-404. Mobile Services**

- A. No change
  - 1. A salon providing mobile cosmetology, hairstyling, nail technology, or aesthetics services shall ~~post~~ ensure licenses are posted as required ~~by~~ under R4-10-111.
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- B. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change

**NOTICE OF PROPOSED RULEMAKING  
TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION  
CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

[R17-116]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R14-2-1201	Re-number
Part A	New Part
R14-2-A1201	New Section
R14-2-A1201	Re-number
R14-2-A1201	Amend
R14-2-1202	Re-number
R14-2-A1202	New Section
R14-2-A1202	Re-number
R14-2-A1202	Amend
R14-2-1203	Re-number
R14-2-A1203	New Section
R14-2-A1203	Re-number
R14-2-A1203	Amend
R14-2-1204	Re-number
R14-2-A1204	New Section
R14-2-A1204	Re-number



R14-2-A1204	Amend
R14-2-1205	Re-number
R14-2-A1205	New Section
R14-2-A1205	Re-number
R14-2-A1205	Amend
R14-2-1206	Re-number
R14-2-A1206	New Section
R14-2-A1206	Re-number
R14-2-A1206	Amend
R14-2-1207	Re-number
R14-2-A1207	New Section
R14-2-A1207	Re-number
R14-2-A1207	Amend
R14-2-1208	Re-number
R14-2-A1208	New Section
R14-2-A1208	Re-number
R14-2-A1208	Amend
R14-2-1209	Re-number
R14-2-A1209	New Section
R14-2-A1209	Re-number
R14-2-A1209	Amend
R14-2-1210	Re-number
R14-2-A1210	New Section
R14-2-A1210	Re-number
R14-2-A1210	Amend
R14-2-1211	Re-number
R14-2-A1211	New Section
R14-2-A1211	Re-number
R14-2-A1211	Amend
R14-2-1212	Re-number
R14-2-A1212	New Section
R14-2-A1212	Re-number
R14-2-A1212	Amend
R14-2-1213	Re-number
R14-2-A1213	New Section
R14-2-A1213	Re-number
R14-2-A1213	Amend
R14-2-1214	Re-number
R14-2-A1214	New Section
R14-2-A1214	Re-number
R14-2-A1214	Amend
R14-2-1215	Re-number
R14-2-A1215	New Section
R14-2-A1215	Re-number
R14-2-A1215	Amend
R14-2-1216	Re-number
R14-2-A1216	New Section
R14-2-A1216	Re-number
R14-2-A1216	Amend
R14-2-1217	Re-number
R14-2-A1217	New Section
R14-2-A1217	Re-number
R14-2-A1217	Amend
Part B	New Section
R14-2-B1218	New Section
R14-2-B1219	New Section
R14-2-B1220	New Section
R14-2-B1221	New Section
R14-2-B1222	New Section
R14-2-B1223	New Section

**2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: Arizona Constitution, Article XV, § 3

Implementing statute: Arizona Constitution, Article XV, § 3. The Commission additionally has statutory authority to make the rule revisions pursuant to A.R.S. §§ 40-202, 40-203, and 40-322.



**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Emergency Rulemaking: 23 A.A.R. 865, April 21, 2017

Notice of Rulemaking Docket Opening: 23 A.A.R. 1906, July 14, 2017 (*in this issue*)

**4. The agency's contact person who can answer questions about the rulemaking:**

Name: Maureen Scott, Deputy Chief, Litigation/Appeals, Legal Division

Address: Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

Telephone: (602) 542-3402

Fax: (602) 542-4870

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Name: Pamela Genung, Public Utilities Manager, Utilities Division

Address: Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

Telephone: (602) 542-0664

Fax: (602) 542-2129

E-mail: pgenung@azcc.gov

Web site: azcc.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

In April 2017 the Arizona Corporation Commission ("Commission") adopted, on an emergency basis, the rules that are subject of this proposed rulemaking. On June 13, 2017, the Commission directed its Staff to begin the regular rulemaking process to amend Title 14, Chapter 2, Article 12 of the Arizona Administrative Code, consistent with the rule changes previously made through the emergency rulemaking.

Adoption of the rules proposed herein on a permanent basis is intended to repeal the rules as adopted in the Emergency Rulemaking, effective March 29, 2017.

In partnership with the Department of Education, the Governor's Office, and the Arizona State Library and Archives, the Commission instituted a new program under the Arizona Universal Service Fund ("AUSF") to assist Arizona schools and libraries to fund the necessary broadband facilities to obtain broadband connectivity. The rules expand the AUSF to provide state matching funds for special construction projects as provided for under the Federal Communications Commission's ("FCC") E-rate Modernization Orders. The FCC's E-rate Modernization Orders allow qualifying schools and libraries to obtain, for a limited period of time, federal matching funds for broadband special construction project up to a certain amount, but only if state funds are provided. The federal program is of limited duration, and expedited action must be taken by the Commission to enable the remaining Arizona schools and libraries with limited or no internet connectivity to take advantage of the new program. The aggregate amount necessary to be collected through the AUSF for this program is approximately eight million dollars, and the funds would be distributed to qualifying schools and libraries for up to five years after an award is granted by the USAC, the federal universal service fund administrator.

If the rules are not formally adopted pursuant to the Arizona Administrative Procedures Act, Arizona schools and libraries will not be able to take advantage of this limited federal program and their broadband connectivity will be significantly delayed and potentially jeopardized due to the limited duration of the federal program. The rules are created in a new Part B to Article 12 that includes a purpose statement, definitions, steps to be taken by applicants, requirements for administration of the program and collection and disbursement of funds under the program, and the provisions relating to discontinuation of the program based upon the limited duration of the federal program. The existing AUSF rules will now be labeled Part A to Article 12.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

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

Not applicable

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

The rules will impact customers of telecommunications service providers in Arizona, telecommunications service providers in Arizona, schools and libraries in Arizona (primarily in rural areas), the Arizona Department of Education, the Administrator of the AUSF and the Commission.

The Arizona Department of Education may see an increase in personnel time expended due to an increase in the number of special construction project requests to be processed and reviewed, but will further its mission in ensuring that every student has access to an excellent education. The Commission also may see an increase in personnel time expended for the AUSF program. Private, business, and government customers of telecommunications service providers will experience a small increase in their monthly



AUSF surcharge in order to fund the approved special construction projects, but are all expected to benefit from increased broadband connectivity for schools and libraries, which should result in enhanced educational quality and a larger and stronger workforce. The Administrator of the AUSF, Solix, Inc., will see an increase in personnel time expended for administration of the AUSF program for the duration of the E-rate Broadband Special Construction Project Matching Fund Program. Businesses involved in construction of broadband infrastructure or the provision of broadband services are likely to see an increase in business as a result of new construction projects, particularly in rural areas.

The Commission is unaware of any less intrusive or less costly alternative methods of achieving the purpose.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Maureen Scott, Deputy Chief, Litigation/Appeals, Legal Division  
Address: Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 542-3402  
Fax: (602) 542-4870  
E-mail: mscott@azcc.gov  
Web site: azcc.gov

Name: Pamela Genung, Public Utilities Manager, Utilities Division  
Address: Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 542-0664  
Fax: (602) 542-2129  
E-mail: pgenung@azcc.gov  
Web site: azcc.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Commission has scheduled the following oral proceeding for public comments:

Date: August 14, 2017  
Time: 10:00 a.m.  
Location: Arizona Corporation Commission  
Hearing Room 1  
1200 W. Washington St.  
Phoenix, AZ 85007  
Nature: Oral proceeding

The Commission requests that written comments concerning the Notice of Proposed Rulemaking be filed by July 24, 2017, and that written reply comments be filed by August 3, 2017 for discussion at the oral proceeding. The Commission will also accept comments, written or otherwise, through August 14, 2017, the date of the oral proceeding. Written comments may be filed with the Commission's Docket Control at the address listed above. Please refer to Docket No. RT-00000H-97-0137 on all documents.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules do not require issuance of a regulatory permit, license or agency authorization.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The rule is no more stringent than Federal Communications Commission rules. (47 CFR. 63.04)

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

47 CFR 54.500 (October 1, 2016), adopted in R14-2-B1219(1)  
47 CFR 54.5 (October 1, 2016), adopted in R14-2-B1219(3)

**13. The full text of the rules follows:**



**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES**

**ARTICLE 12. ARIZONA UNIVERSAL SERVICE FUND**

Section

R14-2-1201.	<u>Definitions Renumbered</u>
R14-2-1202.	<u>Calculation of AUSF Support Renumbered</u>
R14-2-1203.	<u>Request for AUSF Support Renumbered</u>
R14-2-1204.	<u>Funding of the AUSF Renumbered</u>
R14-2-1205.	<u>Calculation of Surcharges Renumbered</u>
R14-2-1206.	<u>Implementation Renumbered</u>
R14-2-1207.	<u>Calculation of Monthly Payments and the Associated Collections Renumbered</u>
R14-2-1208.	<u>Monthly AUSF Disbursements Renumbered</u>
R14-2-1209.	<u>Procedures for Handling AUSF Rate Changes Renumbered</u>
R14-2-1210.	<u>Statement of Participation of All Telecommunications Service Providers in the AUSF Renumbered</u>
R14-2-1211.	<u>Duties and Responsibilities of the AUSF Administrator Renumbered</u>
R14-2-1212.	<u>Interim Administrator Renumbered</u>
R14-2-1213.	<u>Guidelines for Auditing the AUSF Renumbered</u>
R14-2-1214.	<u>Enforcement of Collection of Delinquent AUSF Amounts Renumbered</u>
R14-2-1215.	<u>AUSF Annual Report Renumbered</u>
R14-2-1216.	<u>Review Process Renumbered</u>
R14-2-1217.	<u>Supersession of Existing USF Mechanism Renumbered</u>

PART A. HIGH COST FUND

Section

<del>R14-2-1201</del> <u>R14-2-A1201.</u>	<u>Definitions</u>
<del>R14-2-1202</del> <u>R14-2-A1202.</u>	<u>Calculation of AUSF Support</u>
<del>R14-2-1203</del> <u>R14-2-A1203.</u>	<u>Request for AUSF Support</u>
<del>R14-2-1204</del> <u>R14-2-A1204.</u>	<u>Funding of the AUSF</u>
<del>R14-2-1205</del> <u>R14-2-A1205.</u>	<u>Calculation of Surcharges</u>
<del>R14-2-1206</del> <u>R14-2-A1206.</u>	<u>Implementation</u>
<del>R14-2-1207</del> <u>R14-2-A1207.</u>	<u>Calculation of Monthly Payments and the Associated Collections</u>
<del>R14-2-1208</del> <u>R14-2-A1208.</u>	<u>Monthly AUSF Disbursements</u>
<del>R14-2-1209</del> <u>R14-2-A1209.</u>	<u>Procedures for Handling AUSF Rate Changes</u>
<del>R14-2-1210</del> <u>R14-2-A1210.</u>	<u>Statement of Participation of All Telecommunications Service Providers in the AUSF</u>
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<del>R14-2-1215</del> <u>R14-2-A1215.</u>	<u>AUSF Annual Report</u>
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PART B. ARIZONA UNIVERSAL SERVICE SUPPORT FOR SCHOOLS AND LIBRARIES

Section

<u>R14-2-B1218.</u>	<u>Purpose</u>
<u>R14-2-B1219.</u>	<u>Definitions</u>
<u>R14-2-B1220.</u>	<u>Availability of State Matching Funds for Special Construction Projects to Deploy Broadband</u>
<u>R14-2-B1221.</u>	<u>Procedures for Requesting State Matching Funds</u>
<u>R14-2-B1222.</u>	<u>Administrator Responsibilities; Contributions to and Disbursements from the AUSF</u>
<u>R14-2-B1223.</u>	<u>Discontinuation of E-rate Broadband Special Construction Project Matching Fund Program</u>

**ARTICLE 12. ARIZONA UNIVERSAL SERVICE FUND**

**R14-2-1201. Definitions Renumbered**

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Administrator" is the person designated pursuant to R14-2-1212 to administer the AUSF and perform the functions required by this Article.
2. "Arizona Corporation Commission" or "Commission." The regulatory agency of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
3. "Arizona Universal Service Fund" or "AUSF" is the funding mechanism established by this Article through which surcharges are collected and support paid in accordance with this Article.
4. "AUSF Support" is the amount of money, calculated pursuant to this Article, which a provider of basic local telephone exchange service is eligible to receive from the AUSF pursuant to this Article.



5. "AUSF Support Area" is the geographic area for which a local exchange carrier's eligibility to receive AUSF support is calculated.
6. "Basic local exchange telephone service" is telephone service that provides the following features:
  - a. Access to 1 party residential service with a voice grade line;
  - b. Access to touchtone capabilities;
  - c. Access to an interexchange carrier;
  - d. Access to emergency services, including but not limited to emergency 911;
  - e. Access to directory assistance service;
  - f. Access to operator service;
  - g. Access to a white page or similar directory listing; and
  - h. Access to telephone relay systems for the hearing and speech impaired.
7. "Benchmark rates" for a telecommunications services provider are those rates approved by the Commission for that provider for basic local exchange telephone service, plus the Customer Access Line Charge approved by the Federal Communications Commission.
8. "Commercial Mobile Radio Service" is any radio communication service carried on between mobile stations or receivers and land stations, or by mobile stations communicating among themselves, that is provided for profit and that makes available to the public service that is connected to the public switched network.
9. "Conversion Factor" is a multiplier that is used to convert a quantity of interconnecting trunks for both wireless and wireline customers into equivalent access lines, for the sole purpose of developing Category 1 surcharges. The value of the Conversion Factor shall be 10 until completion of the review provided for in R14-2-1216.
10. "Interconnecting Trunk" is a 1-way or 2-way voice grade or equivalent voice grade switched message transmission channel furnished by a local switched access provider to a provider of wireless services or to a wireline customer of such local switched access provider to interconnect the provider of wireless services or wireline customer to the public switched network.
11. "Intermediate Local Exchange Carriers" are incumbent providers of basic local exchange telephone service with more than 20,000 access lines but fewer than 200,000 access lines in Arizona.
12. "Large Local Exchange Carriers" are incumbent providers of basic local exchange telephone service serving 200,000 or more access lines in Arizona.
13. "Small Local Exchange Carriers" are incumbent providers of basic local exchange telephone service with 20,000 or fewer access lines in Arizona.
14. "Total Service Long Run Incremental Cost" is the total additional cost incurred by a telecommunications company to produce the entire quantity of a service, given that the telecommunications company already provides all of its other services. Total Service Long Run Incremental Cost is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.
15. "U.S. Census Blocks" are geographic areas defined by the U.S. Department of Commerce. The areas, which define the way in which census data is aggregated, generally contain between 250 and 550 housing units.

#### **R14-2-1202. Calculation of AUSF Support Renumbered**

- A.** The amount of AUSF support to which a provider of basic local exchange telephone service is eligible for a given AUSF support area shall be based upon the difference between the benchmark rates for basic local exchange telephone service provided by the carrier, and the appropriate cost to provide basic local exchange telephone service as determined by the Commission, net of any universal service support from federal sources.
- B.** For a small local exchange carrier, the AUSF support area shall include all exchanges served by the local exchange carrier in Arizona. The appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support for a small local exchange carrier shall be the embedded cost of the incumbent provider. For any request for AUSF support by a small local exchange carrier filed more than three years after the effective date of this Article, the AUSF support area shall be the geographic areas as determined by the Commission.
- C.** For an intermediate local exchange carrier, the AUSF support area shall be either all exchanges in Arizona served by that carrier, or such other support area as may be approved by the Commission. The appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support for an intermediate local exchange carrier shall be the embedded cost of the incumbent provider. For any request for AUSF support by an intermediate local exchange carrier filed more than three years after the effective date of this Article, the AUSF support area shall be geographic areas as determined by the Commission, and the appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support shall be the Total Service Long Run Incremental Cost of the incumbent provider. In the event that the FCC adopts a somewhat different forward looking costing methodology and/or a different geographic study/support area for the Federal universal service fund program, a local exchange carrier may request a waiver from this rule in order to utilize the same cost study methodology and/or geographic study areas in both jurisdictions.
- D.** For a large local exchange carrier, the AUSF support area shall be U.S. census block groups, and the appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support shall be the Total Service Long Run Incremental Cost. In the event that the FCC adopts a somewhat different forward looking costing methodology and/or a different geographic study/support area for the Federal universal service fund program, a local exchange carrier may request a waiver from this rule in order to utilize the same cost study methodology and/or geographic study areas in both jurisdictions. Any request for AUSF support by a large local exchange carrier shall include a Total Service Long Run Incremental Cost study, or cost study based on FCC adopted methodology, of basic local exchange service. The cost study shall be developed and presented in a manner that identifies the cost for the individual support areas for which AUSF funding is being requested.

#### **R14-2-1203. Request for AUSF Support Renumbered**



A provider of basic local exchange telephone service may request that the Commission authorize AUSF support with a filing under R14-2-103 or other method as the Commission may prescribe, and upon compliance with all applicable rules set forth in R14-2-1101 through R14-2-1115. A request for AUSF support shall include a statement describing the need for such funding. The Commission shall determine the appropriate cost of providing basic local exchange service for each AUSF support area for which AUSF support is requested and shall calculate in accordance with R14-2-1202 the amount of AUSF support, if any, to which the applicant is entitled.

#### **R14-2-1204. Funding of the AUSF Renumbered**

- A.** The AUSF shall be funded in accordance with this Article by all telecommunications service providers that interconnect to the public switched network. Within 30 days of the effective date of this Article, and thereafter on or before October 1 of each year, each telecommunications provider shall provide to the Administrator a list of all other telecommunications providers that interconnect to its facilities or network.
- B.** The AUSF shall be funded equally by toll and local customers of the providers of telecommunications services, and shall be assessed in the following manner:
1. Category 1—Providers of basic local exchange service, as discussed in R14-2-1204(B)(1)(a), and other service providers as required under R14-2-1204(B)(1)(a)(i) or permitted under R14-2-1204(B)(3)(b), shall be considered providers of Category 1 service.
    - a. One half of the AUSF funding requirement will be collected through Category 1 service providers. Category 1 AUSF assessment will be based upon access lines and interconnecting trunks, and assessed by providers of local switched access as either an access line or interconnecting trunk surcharge. The “per access line” surcharge to be in place during a given year will be calculated by the Administrator using the total number of access lines and equivalent access lines deriving from interconnecting trunks that were in service for all Category 1 service providers on October 1 of the previous year. Access lines shall include business and residence lines, public access lines, and other identifiable access lines. All wireless providers including but not limited to paging and other Commercial Mobile Radio Service providers, that interconnect to the public switched network will contribute to the AUSF under the requirements of Category 1. The number of interconnecting trunks obtained from the local access provider by the wireless provider shall be utilized in conjunction with a Conversion Factor to determine AUSF support from such wireless provider by means of a surcharge on such interconnecting trunks. A wireless provider that fails to contribute to the AUSF as required by this Article shall be subject to termination of its interconnection arrangements pursuant to R14-2-1214(C).
    - b. On or before November 1 of each year, each Category 1 local switched access service provider shall provide to the Administrator the number of access lines and number of interconnecting trunks that were in service on October 1 of that year. The Administrator will use these numbers together with the Conversion Factor in calculating the per access line surcharge and per interconnecting trunk surcharge for the following year. The Administrator will multiply the total number of interconnecting trunks by the Conversion Factor to obtain an equivalent number of access lines for the purpose of calculating the surcharges.
  2. Category 2—Providers of intrastate toll service, or other service providers as permitted under R14-2-1204(B)(3), shall be considered providers of Category 2 service and shall be assessed AUSF charges as follows:
    - a. One half of the AUSF funding requirement will be collected through Category 2 service providers. The Category 2 AUSF assessment will be based on total Arizona intrastate toll revenue, and assessed as a percent of revenue. The percent of revenue assessment to be in place during a given year will be calculated by the Administrator using the annual Arizona intrastate revenue for all Category 2 service providers for the previous year.
    - b. On or before November 1 of each year, each Category 2 service provider shall report to the Administrator the total Arizona intrastate revenue collected between August 1 of the current year and August 1 of the previous year. The Administrator will use this revenue so reported to calculate the AUSF assessment rate for the following year.
  3. New telecommunications service providers:
    - a. Telecommunications providers that begin providing basic local exchange service after the effective date of this Article shall be assessed AUSF charges pursuant to R14-2-1204(B)(1). Telecommunications providers that begin providing toll service after the effective date of this Article shall be assessed AUSF charges pursuant to R14-2-1204(B)(2).
    - b. All other telecommunications service providers that interconnect to the public switched network and begin providing telecommunications service after the effective date of this Article, shall choose to be considered either a Category 1, Category 2, or both Category 1 and Category 2 service provider. Such election shall be made in writing to the Administrator within 30 days of beginning to provide telecommunications service in Arizona, with a copy to the Director of Utilities. Written concurrence of the Director of Utilities must be received by the Administrator for such selection to be effective. Such selection will be irrevocable for a period of at least three years.
  4. A telecommunications provider that provides both Category 1 and Category 2 services shall be assessed AUSF charges pursuant to both R14-2-1204(B)(1) and R14-2-1204(B)(2).

#### **R14-2-1205. Calculation of Surcharges Renumbered**

- A.** The Administrator will calculate the total AUSF support due all local exchange carriers who have been granted AUSF support by the Commission. Administrative costs and audit fees will be added to this amount. The amount of any excess funds in the AUSF will then be subtracted to determine the total funding requirement. The funding requirements from Category 1 and Category 2 service providers will then be calculated. One half of the funding will be obtained from Category 1 providers through surcharges applied to access lines and interconnecting trunks in service. The other half will be obtained from Category 2 providers through surcharges on intrastate toll revenues.
- B.** For the purpose of determining the surcharges, the Administrator will develop growth factors to apply to the total reported access lines and toll revenues. Such growth factors will be calculated at 1/2 of the estimated annual percentage growth in access lines and in toll revenues.



- C. Category 1 Surecharge.** One half of the total annual AUSF support approved by the Commission for all eligible recipients will be obtained from Category 1 service providers. A monthly per access line surcharge and a monthly per interconnecting trunk surcharge required to obtain this funding will be calculated as follows:
  1. Adding together the number of access lines and equivalent access lines for all Category 1 service providers, adjusted by the growth factor;
  2. Dividing the total annual AUSF support approved by the Commission for all eligible recipients by 2 to obtain the portion of AUSF support required from Category 1 service providers;
  3. Dividing the amount of Category 1 AUSF support calculated in subsection (C)(2) by the sum of access lines calculated in subsection (C)(1) to yield the per access line surcharge;
  4. Dividing the per access line surcharge calculated in subsection (C)(3) by 12 to determine the monthly access line assessment;
  5. Multiplying the surcharge obtained in subsection (C)(4) by the Conversion Factor to determine the monthly interconnecting trunk surcharge.
- D. Category 2 Surecharge.** One half of the total annual AUSF support approved by the Commission for all eligible recipients will be obtained from Category 2 service providers. A percent of revenue surcharge required to obtain this funding will be calculated as follows:
  1. Totalling the annual intrastate toll revenues of all Category 2 service providers, adjusted by the growth factor;
  2. Dividing the total AUSF support approved by the Commission for all eligible recipients by 2 to obtain the portion of AUSF support required from Category 2 service providers;
  3. Dividing the amount of Category 2 AUSF support requirement calculated in subsection (D)(2) by the total annual intrastate toll revenues calculated in subsection (D)(1) to arrive at a percentage of revenue surcharge.
- E.** Recipients of lifeline or other low income support shall be exempt from paying a Category 1 surcharge.

**R14-2-1206. Implementation Renumbered**

- A.** Any provider of telecommunications service may file either an AUSF tariff or price list, if appropriate, establishing a flow through mechanism to collect the surcharge approved by the Commission and calculated by the Administrator.
- B.** On or before the 20th day of each month, each Category 1 service provider responsible for collecting AUSF surcharges shall remit to the Administrator the AUSF surcharge, including any surcharge on wireless providers, collected by that provider during the preceding month. The Category 1 provider shall submit such documentation of AUSF revenues from the AUSF surcharge as may be required by the Administrator.
- C.** On or before the 20th day of each month, each Category 2 service provider responsible for collecting AUSF surcharges shall remit to the Administrator the AUSF surcharge collected by that provider during the third preceding month. The Category 2 provider shall submit such documentation of AUSF revenues from the AUSF surcharge as may be required by the Administrator.
- D.** Eligible recipients of AUSF support are:
  1. Providers of telecommunications service engaged in providing basic local exchange telephone service in Arizona which have obtained a Commission order authorizing payments from the AUSF; and
  2. Providers that become entitled to AUSF support based upon the provisions of R14-2-1206(E).
- E.** If the Commission approves AUSF support to a provider of telecommunications service for a defined area, such AUSF support shall also be available to competitive providers of basic local exchange service in the same defined area that are contributing to the AUSF, and that are willing to provide service to all customers in the specific AUSF support area as defined by the Commission. The AUSF support to which the competitive provider is eligible shall be calculated on a per customer basis, at the same level at which the incumbent provider of telecommunications service receives AUSF support, and shall not result in an increase in the total AUSF support available for the specific census block groups or study area. If basic exchange service is provided through the resale of another carrier's local loop facilities, AUSF support will only be available to the retail service provider if AUSF support is not included in the wholesale price for the resold local service. This Section shall not apply to small local exchange carriers nor to the universal service support being received by any telecommunications service provider as of the effective date of this Article.
- F.** For small local exchange carriers and for any basic local exchange telephone service provider receiving universal service support as of the effective date of this Article, the AUSF support shall not be available to competitive providers of basic local exchange service prior to completion of the review provided for in R14-2-1216. Following completion of the review, AUSF support provided to small and intermediate local exchange carriers shall be available to all competitive providers of basic local exchange service in the same defined area that are contributing to AUSF, and that are willing to provide service to all customers in the specific geographic study area as defined by the Commission, unless otherwise ordered by the Commission.
- G.** Defined area, study area, geographic area, and support area mean the same area during the first three years of the effective date of this Article. After the first three years, they will still have the same meaning unless otherwise ordered by the Commission.

**R14-2-1207. Calculation of Monthly Payments and the Associated Collections Renumbered**

- A.** For the monthly Category 1 AUSF payment, each provider of local switched access shall remit to the Administrator an amount equal to the number of access lines in service on the first day of the month, times the monthly surcharge per access line plus the number of interconnecting trunks in service on the first day of the month, times the monthly interconnecting trunk surcharge.
- B.** The monthly AUSF payment that each Category 2 provider shall remit to the Administrator is an amount equal to its monthly intrastate toll revenue times the monthly surcharge percentage.
- C.** Payments must be received by the Administrator by the 20th day of each month. If the payment amount is greater than \$10,000, then it shall be wire transferred to the Administrator.
- D.** The Administrator shall enter into an appropriate non disclosure agreement with each telecommunications service provider to assure that information necessary to allocate AUSF funding obligations and to calculate surcharges is reported, maintained, and used in a



manner that will protect the confidentiality of company specific data. The Administrator shall not use confidential data for any purpose other than administering the AUSF.

**R14-2-1208. Monthly AUSF Disbursements Renumbered**

- A. AUSF disbursement shall be made 30 days following the date of AUSF collections.
- B. The Administrator shall not make AUSF support payments to a provider of telecommunications service until the Administrator has received a copy of a Commission decision authorizing the provider to receive such support.

**R14-2-1209. Procedures for Handling AUSF Rate Changes Renumbered**

- A. Category 1 and Category 2 AUSF surcharges shall be revised when the Commission authorizes new or revised AUSF payments to any provider of telecommunications service. The Administrator shall calculate the new AUSF flow through surcharges in accordance with this Article, which surcharges shall become effective upon the Commission's approval of the new or revised AUSF payments.
- B. An annual calculation to revise AUSF flow through surcharges shall be made by the Administrator on December 1 of each year with an effective date the following January 1. The flow through surcharges shall be calculated so that the total AUSF funding will equal the AUSF revenue requirements, plus administrative costs as well as any corrections and true ups. No later than December 1 of each year, the Administrator shall provide notice to the Commission and all telecommunication service providers who pay into the AUSF of the flow through surcharge rates for the following calendar year.

**R14-2-1210. Statement of Participation of All Telecommunications Service Providers in the AUSF Renumbered**

- A. Within 30 days of the effective date of this Article, each telecommunications service provider shall provide a letter to the Administrator acknowledging that provider's obligation under this Article to pay AUSF surcharges. Failure to provide such a letter shall be grounds for termination after written notice from the Administrator of the provider's interconnection with the public switched network.
- B. Any telecommunications service provider which begins providing telecommunications service after the effective date of this Article shall, within 30 days of beginning to provide intrastate service in Arizona, provide a letter to the Administrator acknowledging that provider's obligation under this Article to make monthly payments for the local and/or toll portion, as appropriate, of the AUSF contribution in accordance with this Article. Failure to provide such a letter shall be grounds for denying to the provider interconnection with the public switched network.

**R14-2-1211. Duties and Responsibilities of the AUSF Administrator Renumbered**

The Administrator shall:

1. Develop, obtain, and, on or before December 15 of each year, file with the Commission such information and documentation as the Administrator deems necessary for the establishment and calculation of the Category 1 and Category 2 surcharges for the succeeding year. Such a filing shall also be made each time the Commission authorizes a change in the AUSF funding requirement.
2. Monitor the AUSF payments of all telecommunications providers.
3. Oversee the billing of AUSF surcharges.
4. Prepare the necessary forms to be used in reporting the AUSF collections and disbursements and maintain monthly records.
5. Coordinate the collection and disbursement of AUSF monies in accordance with this Article.
6. Prepare an annual report that provides a detailed accounting of the AUSF collections and disbursements and that identifies the annual cost of administration. The report shall be filed with the Commission on or before April 15 of each year.
7. Monitor procedures for auditing the AUSF collections and disbursements. The audit function shall be performed by an independent outside auditor.

**R14-2-1212. Interim Administrator Renumbered**

US WEST Communications, Inc., will serve as interim Administrator of the AUSF and will perform the functions detailed herein that are required of the Administrator for a transition period until a private, neutral third party is appointed by the Commission to serve as Administrator of the AUSF. A neutral third party selected through the competitive bid process shall be appointed no later than July 1, 1997.

**R14-2-1213. Guidelines for Auditing the AUSF Renumbered**

- A. The AUSF records covering both collections and disbursements shall be audited at the end of the first year following the designation of a third party administrator. The AUSF records will then be audited at least once every other year in the subsequent years of operations.
- B. The records shall be examined for accuracy and the existence of effective internal controls to ensure that the AUSF is being administered appropriately and properly.
- C. An independent external auditor selected by the Commission shall be utilized to provide an unbiased audit opinion concerning the AUSF administration procedures and controls.
- D. Any costs for conducting audits will be deducted from the revenues of the AUSF prior to disbursement of funds.

**R14-2-1214. Enforcement of Collection of Delinquent AUSF Amounts Renumbered**

- A. The Administrator shall issue past due notices to each provider of telecommunications service that is 15 days or more delinquent in submitting its AUSF payments to the Administrator. A copy of this notice shall be provided to the Commission.
- B. AUSF support payments shall be withheld from any provider of telecommunications service that is delinquent in submitting its AUSF payments to the Administrator. Each provider of telecommunications service will be fully liable for any accrued interest owing on its AUSF contributions that remain unpaid for 30 days. Such delinquent AUSF payments will begin accruing interest at the rate of 1 and 1/2% per month beginning with the 31st day until such amount is paid in full along with all accrued interest.
- C. The local switched access service provider shall promptly notify the Commission and the Administrator of the identity of any wireless provider which fails or refuses to pay its AUSF surcharge. Such notice shall also be directed to the wireless provider. If the wireless provider has not paid the amount due within 30 days of such notice, the interconnection provider shall terminate the wireless



provider's interconnection until the full amount together with all accrued interest, is paid in full (unless the payment is in bonafide dispute and the wireless carrier has paid the undisputed amount).

- D. Failure by a telecommunications service provider to comply with the provisions of this Article may result in sanctions as determined by the Commission.

**~~R14-2-1215. AUSF Annual Report Renumbered~~**

- ~~A. On or before April 1 of each year, the Administrator shall file with the Commission an annual report which shall summarize the preceding year activity and contain the following:
 
  1. A statement of AUSF collections and disbursements.
  2. A record of the total cost of administration of the AUSF.
  3. Audit reports from the audits conducted during the year.~~
- ~~B. A copy of the annual report shall be provided to each provider of telecommunications service who contributes to the AUSF.~~

**~~R14-2-1216. Review Process Renumbered~~**

- ~~A. Not later than three years from the effective date of this Article, the Commission staff shall initiate a comprehensive review of this Article and shall provide the Commission with recommendations regarding any necessary changes to the Article. Any interested party may also make such recommendations. The Commission shall consider these recommendations in such proceeding as the Commission deems appropriate.~~
- ~~B. The costs used to calculate AUSF funding levels for a given provider or AUSF support area shall be reviewed by the Commission at least every three years following the effective date for any authorized AUSF support for the provider or study area. The Commission may reduce the authorized funding level and require that the AUSF surcharge be recalculated on the basis of this review.~~

**~~R14-2-1217. Supersession of Existing USF Mechanism Renumbered~~**

~~The universal service funding mechanism initially approved by the Commission in Decision No. 56639 (September 22, 1989) is superseded by this Article, except that any calculation, contribution or collection of, or entitlement to, universal service fund support approved by the Commission prior to the adoption of this Article shall remain in effect until otherwise ordered by the Commission or until the application of this Article leads to a different result.~~

PART A. HIGH COST FUND

**~~R14-2-1201-R14-2-A1201. Definitions~~**

~~In this Article Part, unless the context otherwise requires, the following definitions shall apply:~~

1. No change
2. No change
3. No change
4. "AUSF Support" is the amount of money, calculated pursuant to this Article Part, which a provider of basic local telephone exchange service is eligible to receive from the AUSF pursuant to this Article Part.
5. No change
6. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
  - g. No change
  - h. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change

**~~R14-2-1202-R14-2-A1202. Calculation of AUSF Support~~**

- A. No change
- B. No change
- C. No change
- D. No change

**~~R14-2-1203-R14-2-A1203. Request for AUSF Support~~**

~~No change~~

**~~R14-2-1204-R14-2-A1204. Funding of the AUSF~~**

- A. No change
- B. No change
  1. No change



- a. No change
- b. No change
- 2. No change
  - a. No change
  - b. No change
- 3. No change
  - a. No change
  - b. No change
- 4. No change

**~~R14-2-1205~~. R14-2-A1205. Calculation of Surcharges**

- A. No change
- B. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- D. No change
  - 1. No change
  - 2. No change
  - 3. No change
- E. No change

**~~R14-2-1206~~. R14-2-A1206. Implementation**

- A. No change
- B. No change
- C. No change
- D. No change
  - 1. No change
  - 2. No change
- E. No change
- F. No change
- G. No change

**~~R14-2-1207~~. R14-2-A1207. Calculation of Monthly Payments and the Associated Collections**

- A. No change
- B. No change
- C. No change
- D. No change

**~~R14-2-1208~~. R14-2-A1208. Monthly AUSF Disbursements**

- A. No change
- B. No change

**~~R14-2-1209~~. R14-2-A1209. Procedure for Handling AUSF Rate Changes**

- A. No change
- B. No change

**~~R14-2-1210~~. R14-2-A1210. Statement of Participation of All Telecommunications Service Providers in the AUSF**

- A. No change
- B. No change

**~~R14-2-1211~~. R14-2-A1211. Duties and Responsibilities of the AUSF Administrator**

- No change
- 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change

**~~R14-2-1212~~. R14-2-A1212. Interim Administrator**

No change

**~~R14-2-1213~~. R14-2-A1213. Guidelines for Auditing the AUSF**



- A. No change
- B. No change
- C. No change
- D. No change

**R14-2-1214.R14-2-A1214. Enforcement of Collection of Delinquent AUSF Amounts**

- A. No change
- B. No change
- C. No change
- D. No change

**R14-2-1215.R14-2-A1215. AUSF Annual Report**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
- B. No change

**R14-2-1216.R14-2-A1216. Review Process**

- A. No change
- B. No change

**R14-2-1217.R14-2-A1217. Supersession of Existing USF Mechanism**

No change

**PART B. ARIZONA UNIVERSAL SERVICE SUPPORT FOR SCHOOLS AND LIBRARIES**

**R14-2-B1218. Purpose**

The purpose of the E-rate Broadband Special Construction Project Matching Fund Program is to provide state funds for special construction projects involving the deployment of broadband to schools and libraries in Arizona so that Arizona schools and libraries may obtain federal matching funds under the FCC Universal Service Fund’s Schools and Libraries Program. This Part shall be interpreted to maximize the availability of internet access to schools and libraries within Arizona and to maximize potential support from the FCC Universal Service Fund’s Schools and Libraries Program to fill any connectivity gap in Arizona.

**R14-2-B1219. Definitions**

In this Part, unless the context otherwise requires, the following definitions shall apply:

1. The definitions contained in 47 CFR 54.500 (October 1, 2016), with no future editions or amendments, which are incorporated by reference; on file with the Commission; and published by and available from the U.S. Government Publishing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001 and at <https://www.gpo.gov/fdsys/>;
2. The definitions in R14-2-A1201, to the extent applicable; and
3. The following definitions:
  - a. “Applicant” is a school, library, consortium, or other eligible entity that requests AUSF funds as provided in this Part.
  - b. “Arizona Universal Service Broadband Special Construction Project Matching Fund” is the fund in Arizona that will make available to applicants matching state funds for Category 1 special construction costs in order to obtain up to an additional 10 percent discount from the federal universal fund.
  - c. “Category 1 services” are services used to connect broadband or internet to eligible locations or that provide basic conduit access to the internet, including “telecommunications services,” “telecommunications,” and “internet access” as defined in 47 CFR 54.5 (October 1, 2016), with no future editions or amendments, which is incorporated by reference; on file with the Commission; and published by and available from the U.S. Government Publishing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001 and at <https://www.gpo.gov/fdsys/>.
  - d. “Category 2 services” are internal connections services needed to enable high speed broadband connectivity and broadband internal connections components, including local area networks (LAN/WLAN), internal connections components, basic maintenance of internal connections components, and managed internal broadband service.
  - e. “Data Transmission Services and Internet Access” is a Category 1 service type that includes broadband connectivity and basic conduit access to the Internet. This does not include charges for content, equipment purchase, or other services beyond basic conduit access to the internet. This service type also covers lit or dark fiber.
  - f. “Department of Education” or “DOE” means the Arizona Department of Education.
  - g. “Discount Calculations” means the discount matrix, determined using the percentage of students eligible for the National School Lunch Program or an equivalent measure of poverty, and the rural or urban status of the school district or library system as determined by the U.S. Census Bureau.
  - h. “Eligible provider” means a provider that has a 498 ID also known as a Service Provider Identification Number or SPIN, obtained by filing an FCC Form 498.
  - i. “Eligible special construction” or “ESC” refers to special construction projects for Category 1 services that deploy new fiber or upgraded facilities to locations eligible for the E-rate Program. ESC may also include non-fiber based services.
  - j. “E-rate Program” is an FCC program that provides discounts to schools and libraries for eligible products and services.
  - k. “E-rate Modernization Orders” are the FCC Orders that have modernized the FCC’s E-rate Program and have maximized schools’ and libraries’ options for purchasing affordable high-speed broadband connectivity: *Modernizing the E-Rate Program for Schools and Libraries, Connect America Fund, WC Docket No. 13-184, Report and Order and Further Notice of*



*Proposed Rulemaking, 29 FCC Rcd 8870 (2014) and Second Report and Order and Order on Reconsideration, 29 FCC Rcd. 15538 (2014).*

- l. “Federal Communications Commission” or “FCC” is the U.S. government agency that regulates interstate and international communications and oversees the federal universal service fund.
- m. “FCC Form 470” is the Description of Services Requested and Certification Form that schools and libraries complete to request services and establish eligibility.
- n. “FCC Form 471” is the Services Ordered and Certification Form that schools and libraries use to report services ordered and discounts requested for those services.
- o. “Funding Commitment Decision Letter” or “FCDL” is a letter from USAC to the applicant which contains USAC’s funding decisions on the applicant’s funding requests.
- p. “Funding Year” or “FY” is a 12-month period during which program support is being provided, beginning on July 1 and ending on June 30 of the following calendar year.
- q. “Second E-rate Modernization Order” is the FCC Order that modernized the FCC’s E-rate Program and provided for additional discounts when states match funds for high-speed broadband connections: *Modernizing the E-Rate Program for Schools and Libraries, Connect America Fund, WC Docket No. 13-184, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538 (2014).*
- r. “Special Construction Charges” are the upfront, non-recurring costs of ESC installations or upgrades, consisting of three components:
  - i. Construction of network facilities.
  - ii. Design and engineering, and
  - iii. Project management.
- s. “Staff designee” is the Director of the Commission’s Utilities Division or another individual that the Commission assigns to perform duties under this Part.
- t. “Universal Service Administrative Company” or “USAC” is an independent, not-for-profit corporation created by the FCC in 1997 to administer the four universal service programs including universal service for schools and libraries.
- u. “Urban” means an individual school or library that is located in an “Urbanized Area” or “Urban Cluster” with a population of 25,000 or more as determined by the U.S. Census Bureau. All other schools or libraries are designated as “rural.”
- v. “Vendor” is the entity that has been selected by the applicant and whose bid USAC has recognized in a FCDL to the applicant.

**R14-2-B1220. Availability of State Matching Funds for Special Construction Projects to Deploy Broadband**

- A.** Applications for AUSF funds for E-rate matching purposes shall be limited to E-rate funding years 2017 and 2018.
- B.** An applicant certified by the Department of Education shall be eligible to receive AUSF funds to cover special construction charges to the extent necessary to qualify the applicant to receive additional federal universal service funds of up to 10 percent of special construction charges as authorized by the Second E-rate Modernization Order.
- C.** An applicant may not receive total support from the federal Universal Service Fund and AUSF in excess of 100 percent of special construction charges.
- D.** Schools and libraries that elect to self-provision shall comply with all of the requirements set forth by the FCC in the Second E-rate Modernization Order.
- E.** An ESC shall provide bandwidth sufficient to meet the minimum recommended bandwidth per student or the minimum recommended bandwidth for educational services established for the relevant funding year by the FCC, and without good cause, shall not exceed those standards.
- F.** If the E-rate Program discount share and additional match plus the AUSF funds received by an applicant do not cover 100 percent of the special construction charges, the Applicant may include in its request filed with the DOE, a request for additional AUSF funds. Additional AUSF funds requested under this subsection shall be awarded as follows:
  - 1. Applicants with 80 percent or higher E-rate Program discount rate shall be awarded AUSF funds before applicants with lower discount rates; and
  - 2. Applicants with discount rates between 60-80 percent may request additional AUSF funds for the uncovered amount, up to 50 percent of the uncovered special construction charges. Amounts requested above 50 percent of the uncovered special construction charges will not be considered without good cause shown by the applicant.

**R14-2-B1221. Procedures for Requesting State Matching Funds**

- A.** An applicant shall file a request for state matching funds with the Department of Education, prior to submitting its Form 471 to USAC.
- B.** If an applicant meets all FCC eligibility requirements for its ESC, the applicant shall obtain a certification letter along with a letter from the Department of Education stating that the applicant is being awarded state matching funds.
- C.** An applicant shall provide the Staff designee a copy of the certification letter and letter awarding state matching funds to it issued by the Department of Education and shall include a copy of the letter awarding state matching funds with its FCC Form 471 sent to USAC.
- D.** Once USAC determines an applicant’s eligibility for federal matching funds and issues a FCDL the applicant shall notify the Department of Education and request that the Department of Education submit a letter to the Staff designee and the Administrator indicating that USAC has issued a FCDL to the applicant with an award of federal funds and including any other information relevant to the award in that particular case.
- E.** Disbursement of AUSF funds shall be available for a period of up to five years after USAC has issued a FCDL to the applicant with an award of federal funds, notwithstanding R14-2-B1220(A).



E. If USAC reduces or rescinds an applicant’s award of federal matching funds following an audit, investigation, enforcement action, or consent decree, the applicant shall immediately notify the Department of Education and the Staff designee and shall reimburse the AUSF fund for any amount by which the AUSF funds received exceeded the federal matching funds award retained.

**R14-2-B1222. Administrator Responsibilities: Contributions to and Disbursements from the AUSF**

A. The Administrator shall be responsible for administering the E-rate Broadband Special Construction Project Matching Fund Program and, in doing so, shall comply with R14-2-A1211 and R14-2-A1214.

B. The Administrator shall:

1. Determine the surcharge rates to fund the E-rate Broadband Special Construction Project Matching Fund Program, subject to Commission approval;
2. Obtain surcharge collections; and
3. Make disbursements from the AUSF for state matching funds as authorized by the Department of Education and the Commission or its Staff designee, as provided in this Section.

C. The increase to the existing surcharge to fund the E-rate Broadband Special Construction Project Matching Fund Program shall be separately calculated and implemented in accordance with Sections R14-2-A1204, R14-2-A1205(B) through (E), R14-2-A1206 (A) through (C), and R14-2-A1207.

D. E-rate Broadband Special Construction Project Matching Fund Program surcharges shall not be collected for a period longer than 12 months unless the surcharge collections from carriers in that 12-month period do not produce \$8 million in total funding. If the amount collected is less than the \$8 million cap, the increase in the AUSF surcharge for this Program shall continue until the \$8 million cap is reached. If the collections produce more than \$8 million in the 12-month period, the Commission Staff shall make a recommendation to the Commission regarding the disposition of the over-collected funds.

E. A telecommunications service provider may collect the E-rate Broadband Special Construction Project Matching Fund Program surcharges from its customers in any manner it reasonably determines to be best for its business and its customers, but shall not in the aggregate collect more than that authorized by the Commission. The telecommunications service providers shall report and submit payment of assessments according to the schedule established by the Administrator.

F. Within 30 days from the effective date of these rules, each telecommunications service provider that interconnects to the public switched network shall provide a letter to the Administrator acknowledging the telecommunications service provider’s obligation to pay the new E-rate Broadband Special Construction Project Matching Fund Program surcharges authorized in this Part. Failure to provide such a letter may be grounds for denying the service provider interconnection with the public switched network, upon notice and opportunity to be heard before the Commission.

G. An applicant shall:

1. After accepting an eligible provider’s bid for an ESC, notify within 15 days the Department of Education and the Administrator of the bid amount accepted so that the Administrator may allocate funds for the ESC; and
2. After the vendor completes the project, submit to the Department of Education and Administrator a request for disbursement of the funds allocated for the ESC.

H. The Administrator shall disburse AUSF funds allocated for an applicant’s ESC upon approval from the Commission or its Staff designee.

**R14-2-B1223. Discontinuation of E-rate Broadband Special Construction Project Matching Fund Program**

A. No applications for the E-rate Broadband Special Construction Project Matching Fund Program shall be accepted after the 2018 E-rate FY procurement cycle.

B. Except as provided in subsection (C), the E-rate Broadband Special Construction Project Matching Fund Program shall be discontinued when all of the funds have been collected and all of the funds collected have been disbursed.

C. The E-rate Broadband Special Construction Project Matching Fund Program may be discontinued earlier or later than specified in subsection (B) if required by the FCC or USAC.

**NOTICE OF PROPOSED RULEMAKING  
TITLE 18. ENVIRONMENTAL QUALITY  
CHAPTER 5. DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL REVIEWS AND CERTIFICATION**

[R17-117]

**PREAMBLE**

<b><u>1. Article, Part or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R18-5-201	Amend
R18-5-202	Amend
R18-5-203	Amend
R18-5-204	Amend
R18-5-205	Repeal
R18-5-206	Repeal
R18-5-207	Repeal
R18-5-208	Repeal
R18-5-209	Repeal
R18-5-210	Repeal
R18-5-211	Repeal
R18-5-212	Repeal



R18-5-213	Repeal
R18-5-214	Repeal
R18-5-215	Repeal
R18-5-216	Repeal
R18-5-217	Repeal
R18-5-218	Repeal
R18-5-219	Repeal
R18-5-220	Repeal
R18-5-221	Repeal
R18-5-222	Repeal
R18-5-223	Repeal
R18-5-224	Repeal
R18-5-225	Repeal
R18-5-226	Repeal
R18-5-227	Repeal
R18-5-228	Repeal
R18-5-229	Repeal
R18-5-230	Repeal
R18-5-231	Repeal
R18-5-232	Repeal
R18-5-233	Repeal
R18-5-234	Repeal
R18-5-235	Repeal
R18-5-236	Repeal
R18-5-237	Repeal
R18-5-238	Repeal
R18-5-239	Repeal
R18-5-240	Repeal
R18-5-241	Repeal
R18-5-242	Repeal
R18-5-243	Repeal
R18-5-244	Repeal
R18-5-245	Repeal
R18-5-246	Repeal
R18-5-247	Repeal
R18-5-248	Repeal
R18-5-249	Amend

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. Title 49, Chapter 1, Article 1  
 Implementing statutes: A.R.S. § 49-104(B)(12)

**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 23 A.A.R. 1907, July 14, 2017 (*in this issue*)

**4. The agency's contact person who can answer question about the rulemaking:**

Name: Anakaren Lemus  
 Address: Department of Environmental Quality  
 1110 W. Washington St.  
 Phoenix, AZ 85007  
 Telephone: (602) 771-2212 (Toll-free number in Arizona: (800) 234-5677), ext. 771-2212  
 Fax: (602) 771-4834  
 E-mail: lemus.anakaren@azdeq.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Arizona Department of Environmental Quality (ADEQ) is required by A.R.S. § 49-104(B)(12) to have rules prescribing minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place. ADEQ's swimming pool rules are woefully out of date, and therefore ADEQ proposes to update these standards by referencing the 2016 Model Aquatic Health Code for all public and semi-public swimming pools. Another reason why ADEQ is proposing referencing this specific standard is because most of the feedback received to date has been to adopt the 2016 Model Aquatic Health Code. The national standard is more flexible than ADEQ's current 1998 standards. ADEQ proposes to repeal definitions that are found in both R18-5-201 and in the 2016 Model Aquatic Health Code, to prevent there from being any duplicate definitions. The only definitions being kept are ones that are not defined in the 2016 Model Aquatic Health Code, but are found in R18-5-202, R18-5-203, R18-5-249, R18-5-250 and R18-5-204. ADEQ proposes to update its current design approval process. Under the current design approval process ADEQ reviews every application for design approval received. The new proposed process will not require ADEQ to



review every application for approval, however the Department will have the right to review any and all applications as deemed necessary.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:**

2016 Model Aquatic Health Code Annex (2nd Edition)

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

Not applicable

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

The proposed changes will reduce costs and therefore should be a positive economic impact for all businesses, including small businesses and consumer impact. Costs for contractors to prepare for construction will also be less because they are given more flexibility.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Anakaren Lemus  
Address: Department of Environmental Quality  
1110 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 771-2212 (Toll-free number in Arizona: (800) 234-5677), ext. 771-2212  
Fax: (602) 771-4834  
E-mail: lemus.anakaren@azdeq.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

ADEQ has scheduled a public hearing to receive oral comments on the rules, in accordance with A.R.S. § 41-1023; the time, place, and location of the hearing are listed below:

Date: August 14, 2017  
Time: 9:00 a.m.  
Location: Department of Environmental Quality  
1110 W. Washington, Room 250  
Phoenix, AZ 85007  
Nature: Stakeholder Meeting

Written, faxed, or e-mailed comments may be made with the contact person listed in item #4. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m. August 14, 2017. Upon request, ADEQ will provide appropriate auxiliary aids and services to persons with disabilities, at no charge, to assist in accessible communication to enable people who have speech, hearing, vision, learning, or other impairments to participate equally, including qualified sign language interpreters. To request an auxiliary aid or service, to obtain this document in alternative format, or for further information, please contact Christine Harp at (602) 771-4280 or via email at [harp.christine@azdeq.gov](mailto:harp.christine@azdeq.gov) as early as possible to allow time to arrange the accommodation. TTY/TTD Services: 7-1-1. The ADA does not require ADEQ to take any action that would fundamentally alter the nature of its programs, services or activities, or impose an undue financial or administrative burden on ADEQ. This rulemaking's public record will close at 5:00 p.m. on August 14, 2017.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule establishes a review and approval process for pre-construction and permission to operate that qualifies as a general permit in accordance with A.R.S. § 49-1037.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

R18-5-202 (C) 2016 Model Aquatic Health Code (2nd Edition)

**13. The full text of the rules follows:**



**TITLE 18. ENVIRONMENTAL QUALITY**  
**CHAPTER 5. DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**ENVIRONMENTAL REVIEW AND CERTIFICATION**

**ARTICLE 2. PUBLIC AND SEMIPUBLIC SWIMMING POOLS AND SPAS**

Section	
R18-5-201.	Definitions
R18-5-202.	Applicability
R18-5-203.	Design Approval
R18-5-204.	<u>Approval of Construction Permission to Operate</u>
R18-5-205.	<u>Prohibitions Repealed</u>
R18-5-206.	<u>Water Source Repealed</u>
R18-5-207.	<u>Construction Materials Repealed</u>
R18-5-208.	<u>Maximum Bathing Load Repealed</u>
R18-5-209.	<u>Shape Repealed</u>
R18-5-201.	<u>Walls Repealed</u>
R18-5-211.	<u>Freeboard Repealed</u>
R18-5-212.	<u>Floors Repealed</u>
R18-5-213.	<u>Entries and Exits Repealed</u>
R18-5-214.	<u>Steps Repealed</u>
R18-5-215.	<u>Ladders Repealed</u>
R18-5-216.	<u>Recessed Treads Repealed</u>
R18-5-217.	<u>Decks and Deck Equipment Repealed</u>
R18-5-218.	<u>Lighting Repealed</u>
R18-5-219.	<u>Water Depths Repealed</u>
R18-5-220.	<u>Depth Markers Repealed</u>
R18-5-221.	<u>Diving Areas and Equipment Repealed</u>
R18-5-222.	<u>Prohibition Against Diving; Warning Signs Repealed</u>
R18-5-223.	<u>Water Circulation System Repealed</u>
R18-5-224.	<u>Piping and Fittings Repealed</u>
R18-5-225.	<u>Pumps and Motors Repealed</u>
R18-5-226.	<u>Drains and Suction Outlets Repealed</u>
R18-5-227.	<u>Filters Repealed</u>
R18-5-228.	<u>Return Inlets Repealed</u>
R18-5-229.	<u>Gauges Repealed</u>
R18-5-230.	<u>Flow Meter Repealed</u>
R18-5-231.	<u>Strainers Repealed</u>
R18-5-232.	<u>Overflow Collection Systems Repealed</u>
R18-5-233.	<u>Vacuum Cleaning Systems Repealed</u>
R18-5-234.	<u>Disinfection Repealed</u>
R18-5-235.	<u>Cross-Connection Control Repealed</u>
R18-5-236.	<u>Disposal of Filter Backwash, Wasted Swimming Pool or Spa Water, Wastewater Repealed</u>
R18-5-237.	<u>Lifeguard Chairs Repealed</u>
R18-5-238.	<u>Lifesaving and Safety Equipment Repealed</u>
R18-5-239.	<u>Rope and Float Lines Repealed</u>
R18-5-240.	<u>Barriers Repealed</u>
R18-5-241.	<u>Public Swimming Pools; Bathhouses and Dressing Rooms Repealed</u>
R18-5-242.	<u>Semipublic Swimming Pools; Toilets and Lavatories Repealed</u>
R18-5-243.	<u>Drinking Water Fountains Repealed</u>
R18-5-244.	<u>Wading Pools Repealed</u>
R18-5-245.	<u>Time for Public and Semipublic Spas Repealed</u>
R18-5-246.	<u>Air blower and Air Induction Systems for Public Semipublic Spas Repealed</u>
R18-5-247.	<u>Water Temperature in Public and Semipublic Spas Repealed</u>
R18-5-248.	<u>Special Use Pools Repealed</u>
R18-5-249.	Variances

**ARTICLE 2. PUBLIC AND SEMIPUBLIC SWIMMING POOLS AND SPAS**

**R18-5-201. Definitions**

“Air induction system” means a system whereby a volume of air is induced into a hollow ducting in a spa floor, bench, or wall. An air induction system is activated by an air power blower and is separate from the water circulation system.

“Artificial lake” means a man-made lake, lagoon, or basin, lined or unlined, with a surface area equal to or greater than two acres (87,120 square feet), that is used or intended to be used for water contact recreation.

“Backwash” means the process of thoroughly cleaning a filter by the reverse flow of water through the filter.

“Barrier” means a fence, wall, building, or landscaping that obstructs access to a public or semipublic swimming pool or spa.



- “Cartridge filter” means a depth, pleated, or surface type filter component with fixed dimensions that is designed to remove suspended particles from water flowing through the filter.
- “Construct” means to build or install a new public or semipublic swimming pool or spa or to enlarge, deepen, or make a major modification to an existing public or semipublic swimming pool or spa.
- “Coping” means the cap on a swimming pool or spa wall that provides a finished edge around the swimming pool or spa.
- “Cross-connection” means any physical connection or structural arrangement between a potable water system and the piping system for a public or semipublic swimming pool or spa through which it is possible to introduce used water, gas, or any other substance into the potable water system. A bypass arrangement, jumper connection, removable section, swivel or change-over device, or any other temporary or permanent device that may cause backflow is a cross-connection.
- “Deck” means a hard surface area immediately adjacent or attached to a swimming pool or spa that is designed for sitting, standing, or walking.
- “Deep area” means the portion of a public or semipublic swimming pool that is more than 5 feet in depth.
- “Discharge piping” means the portion of the circulation system that carries water from the filter back to the swimming pool or spa.
- “Diving area” means the area of a public or semipublic swimming pool that is designated for diving from a diving board, diving platform, or starting block.
- “Fill and draw swimming pool or spa” means a swimming pool or spa where the principal means of cleaning is the complete removal of the used water and its replacement with potable water.
- “Filtration rate” means the rate of water flowing through a filter during the filter cycle expressed in gallons per minute per square foot of effective filter area.
- “Flow-through swimming pool or spa” means a swimming pool or spa where new water enters the swimming pool or spa to replace an equal quantity of water that constantly flows out.
- “Freeboard” means the vertical wall section of a swimming pool or spa wall between the waterline and the deck.
- “Hose bibb” means a faucet with a threaded nozzle to which a hose may be attached.
- “Hydrotherapy jet” means a fitting that blends air and water and creates a high-velocity, turbulent stream of air-enriched water for injection into a spa.
- “Make-up water” means fresh water used to fill or refill a swimming pool or spa.
- “Maximum bathing load” means the design capacity or the maximum number of users that a public or semipublic swimming pool or spa is designed to hold.
- “Natural bathing place” means a lake, pond, river, stream, swimming hole, or hot springs which has not been modified by man.
- “Operate” means to run, maintain, or otherwise control or direct the functioning of a public or semipublic swimming pool or spa.
- “Overflow collection system” means equipment designed to remove water from a swimming pool or spa, including gutters, overflows, surface skimmers, and other surface water collection systems of various designs and manufacture.
- “Potable water” means drinking water.
- “Private residential spa” means a spa at a private residence used only by the owner, members of the owner’s family, and invited guests, or a spa that serves a housing group consisting of no more than three living units [for example, duplexes or triplexes].
- “Private residential swimming pool” means a swimming pool at a private residence used only by the owner, members of the owner’s family, and invited guests, or a swimming pool that serves a housing group consisting of no more than three living units [for example, duplexes or triplexes].
- “Public spa” means a spa that is open to the public with or without a fee, including a spa that is operated by a county, municipality, political subdivision, school district, university, college, or a commercial establishment whose primary business is the operation of a spa.
- “Public swimming pool” means a swimming pool that is open to the public with or without a fee, including a swimming pool that is operated by a county, municipality, political subdivision, school district, university, college, or a commercial establishment whose primary business is the operation of a swimming pool.
- “Recessed treads” means a series of vertically spaced, pre-formed stepholes in a swimming pool wall.
- “Return inlet” means an aperture or fitting through which filtered water returns to a swimming pool or spa.
- “Rope and float line” means a continuous line not less than 3/4 inch in diameter that is supported by buoys and attached to opposite sides of a swimming pool to separate areas of the swimming pool.
- “Semi-artificial bathing place” means a natural bathing place that has been modified by man.
- “Semipublic spa” means a spa operated for the residents of lodgings such as hotels, motels, resorts, apartments, condominiums, townhouse complexes, trailer courts, mobile home parks, or similar establishments. A semipublic spa includes a spa that is operated by a neighborhood or community association for the residents of the community and their guests and any spa at a country club, health club, camp, or similar establishment where the primary business of the establishment is not the operation of a spa and where the use of the spa is included in the fee for the primary use of the establishment.
- “Semipublic swimming pool” means a swimming pool operated for the residents of lodgings such as hotels, motels, resorts, apartments, condominiums, townhouse complexes, trailer courts, mobile home parks, or similar establishments. A semipublic swimming pool includes a swimming pool that is operated by a neighborhood or community association for the residents of the



community and their guests and a swimming pool at a country club, health club, camp, or similar establishment where the primary business of the establishment is not the operation of a swimming pool and where the use of the swimming pool is included in the fee for the primary use of the establishment.

“Shallow area” means the portion of a public or semipublic swimming pool that is 5 feet or less in depth.

“Slip resistant” means a surface that has a static coefficient of friction [wet or dry] of at least 0.50.

“Spa” means an artificial basin, chamber, or tank of irregular or geometric shell design that is intended only for bathing or soaking and that is not drained, cleaned, or refilled for each user. A spa may include features such as hydrotherapy jet circulation, hot water, cold water mineral baths, or an air induction system. Industry terminology for a spa includes “hydrotherapy pool,” “whirlpool,” “hot tub,” and “therapy pool.”

“Special use pool” means a swimming pool intended for competitive aquatic events, aquatic exercise, or lap swimming. A special use pool includes a wave action pool, exit pool for a water slide, swimming pool that is part of an attraction at a water recreation park, water volleyball pool, or a swimming pool with special features used for training and instruction.

“Suction outlet” means the aperture or fitting through which water is withdrawn from a swimming pool or spa.

“Suction piping” means the water circulation system piping that carries water from a swimming pool or spa to the filter.

“Swimming pool” means an artificial basin, chamber, or tank that is designed for swimming or diving.

“Turnover rate” means the number of hours required to circulate a volume of water equal to the capacity of the swimming pool or spa.

“User” means a person who uses a swimming pool, spa, or adjoining deck area.

“Wading pool” means a shallow swimming pool used for bathing and wading by small children.

“Water circulation system” means an arrangement of mechanical equipment connected to a swimming pool or spa by piping in a closed loop that directs water from the swimming pool or spa to the filtration and disinfection equipment and returns the water to the swimming pool or spa.

“Water circulation system components” means the mechanical components that are part of a water circulation system of a swimming pool or spa, including pumps, filters, valves, surface skimmers, ion generators, electrolytic chlorine generators, ozone process equipment, and chemical feeding equipment.

“Water level” means either:

- a. On swimming pools and spas with skimmer systems, the midpoint of the operating range of the skimmers, or
- b. On swimming pools and spas with overflow gutters, the height of the overflow rim of the gutter.

#### R18-5-202. Applicability

- A. This Article applies to public and semipublic swimming pools and spas.
- B. This Article does not apply to the following:
  1. A private residential swimming pool or spa,
  2. A swimming pool or spa used for medical treatment or physical therapy and supervised by licensed medical personnel,
  3. A semi-artificial bathing place,
  4. A natural bathing place, or
  5. An artificial lake.
- C. The following sections of the CDC 2016 Model Aquatic Health Code, 2nd Edition, published July 2016 are incorporated by reference, do not include any later amendments or editions, and are on file with the Department per A.R.S. § 41-1028:
  1. All definitions listed in part 3.2 Glossary of Terms Used in the MAHC Code.
  2. Part 4.2 for all allowable materials;
  3. Part 4.3 for all equipment standards;
  4. Part 4.5 for all Aquatic venue structures;
  5. Part 4.7 for all recirculation and water treatment;
  6. Part 4.9 for all filter/equipment room;
  7. Part 4.11 for all water supply/wastewater disposal;
  8. Part 5.7 for all recirculation and water treatment;
  9. Part 5.9 for all filter/equipment room;
  10. Part 5.11 for all water supply/wastewater disposal;

#### R18-5-203. Design Approval

- A. A person shall ~~obtain design approval from the Department~~ notify ADEQ of intent to construct before starting construction of:
  1. A new public or semipublic swimming pool or spa;
  2. A major modification to an existing public or semipublic swimming pool or spa. For purposes of this subsection, a major modification means a change to the shape, depth, ~~water circulation system~~ recirculation system, or disinfection system of a public or semipublic swimming pool or spa or the installation of diving equipment at a public or semipublic swimming pool;
  3. ~~A change in use from a semipublic swimming pool to a public swimming pool; and~~
  4. ~~3.~~ A change in use from a private residential swimming pool to a public or semipublic swimming pool.
- B. ~~An applicant for a design approval shall submit an ADEQ application form to the Department in quadruplicate with four complete sets of plans and specifications for the swimming pool or spa and the information in subsection (C). notice of intent to construct shall be submitted on an ADEQ prescribed form.~~
- C. ~~The application for design approval~~ notice of intent to construct shall include four one copies copy of the following:
  1. A general plot plan;



- 2. Plans and specifications showing the size, shape, cross-section, slope, and dimensions of each swimming pool or spa, deck areas, and barriers;
  - 3. Plans and specifications showing the ~~water circulation~~ recirculation system and disinfection systems, including all piping, fittings, drains, suction outlets, filters, pumps, surface skimmers, return inlets, chemical feeders, disinfection equipment, gauges, flow meters, and strainers; and
  - 4. Plans and specifications showing ~~the source of water supply and the method of disposal of filter backwash water, used swimming pool or spa water, and wastewater from toilets, urinals, sinks, and showers; water supply/waste disposal; and~~
  - 5. ~~Detailed plans of bathhouses, dressing rooms, equipment rooms, and other appurtenances; and~~
  - 6. Additional data information ~~required as requested~~ by the Department for a complete understanding of the project.
- D.** A professional engineer, or architect, ~~or a swimming pool or spa contractor with a current A-9, A-19, KA-5, KA-6 license shall prepare or supervise the preparation of all plans and specifications submitted to the Department for review.~~
- E.** An applicant shall submit ~~an application for design approval~~ the notice of intent to construct to the Department at least 60 days prior to the date that the applicant wishes to begin construction of a swimming pool or spa.
- F.** ~~The Department shall determine whether the application for design is complete. Unless the Department otherwise notifies the applicant, the notice of intent to construct is presumed complete and approved~~ within 30 days of the date of receipt of the ~~application notice~~ by the Department.
- G.** The Department may request additional information.
- ~~**G.H.** The Department shall may issue or deny the application for design approval confirmation of receipt of the notice of intent to construct within 30 days of the date that the Department determines that the application for design approval is complete receives the notice.~~
- ~~**H.I.** Unless an extension of time is granted in writing by the Department, a design approval the notice of intent to construct is void if construction is not started within one year after the date of its issuance or there is a halt in construction of more than one year.~~
- ~~**I.** The Department may issue a design approval with conditions. The Department shall not issue an Approval of Construction if the design approval is conditioned and the construction of the swimming pool or spa does not comply with the stated conditions.~~
- ~~**J.** The Department may issue design approvals in phases to allow a political subdivision to start construction of a public swimming pool or spa without issuing a design approval for the entire construction project. A design approval may be issued in phases provided all of the following conditions are met:~~
- 1. ~~A phased design approval is needed to accommodate a design/build contract, phased construction contract, multiple construction contracts, turnkey contract, or special contract that requires construction to begin prior to the completion of design plans and specifications for the entire public swimming pool or spa construction project.~~
  - 2. ~~The applicant submits a detailed project description for the entire public swimming pool or spa construction project to the Department.~~
  - 3. ~~There is a written agreement between the applicant and the Department which includes the following:~~
    - a. ~~A construction project schedule;~~
    - b. ~~A schedule to submit applications and supporting documentation for the phased design approval including any anticipated variance requests;~~
    - c. ~~Negotiated time frames for administrative completeness and substantive review of each application for phased design approval, and~~
    - d. ~~A schedule of construction inspections by the Department or third party certifications by the applicant.~~
  - 4. ~~The applicant certifies in writing that the applicant understands that the public swimming pool or spa cannot be operated without an Approval of Construction for each phase of the construction project pursuant to R18-5-204.~~
  - 5. ~~If the applicant and the Department cannot reach agreement regarding a phased design approval or Approval of Construction, then the requirements of R18-5-203(A) through (I) and R18-5-204 apply.~~

**R18-5-204. Approval of Construction Permission to Operate**

- ~~**A.** A public or semipublic swimming pool or spa shall not operate without receiving an Approval of Construction issued by the Department.~~
- ~~**B.A.** The construction of a public or semipublic swimming pool or spa shall conform to plans and specifications that have been approved by submitted to the Department, and the plans comply with all the requirements in this Article. If the applicant wishes to make a change to the approved plans and specifications, the applicant shall submit revised plans and specifications with a written statement of the reasons for the change to the Department on an ADEQ prescribed form. The applicant shall obtain Department approval of the revised plans and specifications before starting any work affected by the change.~~
- ~~**B.B.** Prior to any construction that will cover the piping arrangement of the swimming pool or spa and at least 30 days prior to the expected date of completion of construction of a public swimming pool or spa, the applicant shall notify the Department to permit a construction inspection on an ADEQ prescribed form. The Department shall may inspect the construction of a swimming pool or spa to determine if the swimming pool or spa has been constructed in accordance with Department-approved plans, specifications, and conditions, unless a professional engineer, architect, or registered sanitarian, or a swimming pool or spa contractor with a current A-9, A-19, KA-5, KA-6, or another appropriate license under Arizona Administrative Code Title 4 Chapter 9, shall certifies certify in writing that the swimming pool or spa has been constructed in accordance with Department approved plans, specifications, and conditions.~~
- ~~**B.C.** If the swimming pool or spa has been constructed in accordance with Department-approved plans, specifications, and conditions, and if the Department has not otherwise notified the applicant, after 30 days from the notice given to the Department in subsection B, the applicant is granted permission to operate the swimming pool or spa by operation of law. Department shall issue the Approval of Construction within 30 days of the date of the construction inspection by the Department or the date the Department receives third-party certification.~~

**R18-5-205. Prohibitions Repealed**

- ~~**A.** A fill and draw swimming pool or spa shall not be used as a public or semipublic swimming pool or spa.~~



~~B. A private residential spa shall not be used as a public or semipublic spa.~~

**R18-5-206. Water Source Repealed**

~~Only water from a source that is approved by the Department shall be used in a public or semipublic swimming pool or spa. Reclaimed wastewater shall not be used as make-up water for a public or semi-public swimming pool or spa.~~

**R18-5-207. Construction Materials Repealed**

- ~~A. A public or semipublic swimming pool or spa shall be constructed of concrete or other structurally rigid material that is equivalent in strength or durability to concrete, except that a public or semipublic spa may be constructed of fiberglass or acrylic.~~
- ~~B. A public or semipublic swimming pool or spa shall be constructed of materials that are nontoxic.~~
- ~~C. A public or semipublic swimming pool or spa shall be constructed of waterproof materials that provide a watertight structure.~~
- ~~D. A public or semipublic swimming pool or spa shall have a smooth and easily cleaned surface, without cracks or joints, excluding structural joints, or to which a smooth, easily cleaned surface finish is applied or attached.~~
- ~~E. All corners in a public or semipublic swimming pool or spa shall be rounded, including the corners formed by the intersection of a wall and floor.~~
- ~~F. A surface within a public or semipublic swimming pool or spa intended to provide footing for users shall have a slip-resistant surface. The roughness or irregularity of the surface shall not cause injury or discomfort to users' feet during normal use.~~
- ~~G. The color, pattern, or finish of the interior of a public or semi-public swimming pool or spa shall not obscure objects, surfaces within the swimming pool or spa, debris, sediment, or algae. Surface finishes shall be white, pastel, or other light color. The interior finish shall completely line the swimming pool or spa to the coping, tile, or gutter system.~~

**R18-5-208. Maximum Bathing Load Repealed**

- ~~A. The maximum bathing load for a public or semipublic swimming pool or spa shall not be exceeded.~~
- ~~B. The maximum bathing load for a public or semipublic swimming pool shall be calculated as the sum of the following:
  1. The shallow area of the swimming pool in square feet divided by 10 square feet, plus
  2. The deep area of the swimming pool in square feet minus 300 square feet for each diving board divided by 24 square feet.~~
- ~~C. The maximum bathing load for a public swimming pool shall be limited by the number of users for the toilets, showers, or lavatories that are provided in the bathhouses or dressing rooms prescribed in R18-5-242.~~
- ~~D. The maximum bathing load for a public or semipublic spa shall not exceed the area of the spa in square feet divided by 9 square feet.~~
- ~~E. The maximum bathing load for a public or semipublic swimming pool or spa shall be posted.~~

**R18-5-209. Shape Repealed**

- ~~A. A public or semipublic swimming pool or spa may be any shape except that the designer shall shape a public or semipublic swimming pool or spa to minimize hazards to users and provide adequate circulation of swimming pool or spa water.~~
- ~~B. There shall be no protrusions, extensions, means of entanglement, or other obstructions in a public or semipublic swimming pool or spa that may cause entrapment of or injury to the user. This subsection does not prohibit water features such as water fountains, slides, water play equipment, or water volley ball and basketball nets.~~

**R18-5-210. Walls Repealed**

- ~~A. Where a racing lane terminates in a swimming pool, the wall shall be plumb to a minimum depth of 5 feet below the water line. Below the 5-foot depth, the wall shall be radiused to join the floor.~~
- ~~B. There shall be no projections from a swimming pool or spa wall except for coping, cantilevered deck, ladders, and steps.~~
- ~~C. An underwater seat shall comply with the following:
  1. The edges of an underwater seat shall be outlined with a sharply contrasting colored tile or other material that is clearly visible from the deck adjacent to the underwater seat;
  2. An underwater seat shall have a slip-resistant surface;
  3. An underwater seat shall be located outside of the deep area of a swimming pool that is equipped for diving. An underwater seat may be located in the deep area of a swimming pool that is not equipped for diving provided the underwater seat is either completely recessed into the swimming pool wall, shaped to be compatible with the shape of the swimming pool wall, or in a corner of the swimming pool;
  4. The maximum depth of an underwater seat is 24 inches below the waterline. The minimum depth of an underwater seat is 12 inches below the waterline; and
  5. The maximum width of an underwater seat is 20 inches.~~
- ~~D. If a spa is located immediately adjacent to a swimming pool, the separating wall between the spa and the swimming pool shall be no more than 8 inches wide. The top of the separating wall shall be no lower than the level of the coping of the swimming pool. If a separating wall is more than 8 inches wide, then the deck width shall comply with R18-5-217(D). A spa shall not be located immediately adjacent to the deep area of a swimming pool~~
- ~~E. Coping or cantilevered deck may project from a swimming pool or spa wall to provide a handhold for users. The coping or deck shall be rounded, have a slip-resistant surface finish, and shall not exceed 3 1/2 inches in thickness. The overhang of the coping or deck shall not exceed 2 inches or be less than 1 inch. All corners created by coping or cantilevered deck shall be rounded in both the vertical and horizontal dimensions to eliminate sharp corners.~~

**R18-5-211. Freeboard Repealed**

- ~~A. The freeboard in a public or semipublic swimming pool or spa shall not exceed 8 inches, except as provided in subsection (B).~~
- ~~B. The freeboard in a semipublic swimming pool may exceed 8 inches to provide for walls, terraces, or other design features. The Department shall review each request to allow an increase in freeboard on a case-by-case basis. In reviewing the request, the Department shall consider safety, exit distances, alternative exits, and location. The length and height of the section where the freeboard area may be increased is limited. All of the following requirements shall be met:
  1. Guard rails or similar devices are provided to prevent any raised area from being used as a diving platform.~~



- 2. The vertical surfaces of the freeboard area are constructed of inorganic materials. All vertical surfaces shall be rigid, smooth, and easily cleanable.
- 3. The horizontal surface areas comply with the provisions of this Article for decks.
- 4. The vertical surface area is included as surface area of the swimming pool to determine the type, size, location, and numbers of equipment and piping.

**R18-5-212. Floors Repealed**

- ~~A.~~ The slope of the floor of a public or semipublic swimming pool, from the end wall in the shallow area towards the deep area to the point of the first slope change shall be uniform and shall not exceed 1 foot of fall in 10 feet. The floor slope in a public or semipublic spa shall not exceed 1 foot of fall in 10 feet.
- ~~B.~~ The floor slope of a public or semipublic swimming pool, from the point of the first slope change to the deepest part of the swimming pool, shall not exceed 1 foot of fall in 3 feet.
- ~~C.~~ For a public or semipublic swimming pool that is equipped for diving, the depth of the swimming pool at the point of the first slope change shall be a minimum of 5 feet. For a public or semipublic swimming pool that is not equipped for diving, the depth of the swimming pool at the point of the first slope change shall be a minimum of 4 feet.
- ~~D.~~ All portions of a swimming pool or spa floor shall slope towards a main drain.
- ~~E.~~ The transitional radius where the floor of a public or semipublic swimming pool joins a wall shall comply with the following:
  - 1. The center of the radius shall be no less than 3 feet below the waterline in the deep area or 2 feet below the water line in the shallow area.
  - 2. The radius shall be tangent at the point where the radius meets the wall or floor.
  - 3. The radius shall be equal to or greater than the depth of the swimming pool minus the vertical wall depth measured from the waterline minus 3 inches.

**R18-5-213. Entries and Exits Repealed**

- ~~A.~~ Each public or semipublic swimming pool shall have at least two means of entry or exit consisting of ladders, steps, or recessed treads.
- ~~B.~~ There shall be at least one ladder, set of steps, or set of recessed treads for each 75 feet of perimeter of a public or semipublic swimming pool or spa.
- ~~C.~~ At least one means of entry and exit shall be provided in the deep area and at least one means of entry and exit shall be provided in the shallow area of a public or semipublic swimming pool. Where the water depth is 2 feet at the swimming pool wall in the shallow area or where there is a zero depth entry pool [for example, an artificial beach], the area shall be considered a means of entry or exit.
- ~~D.~~ A set of steps shall be provided in a public or semipublic spa.
- ~~E.~~ The location of stairs, ladders, and recessed treads shall not interfere with racing lanes.

**R18-5-214. Steps Repealed**

- ~~A.~~ Each set of steps shall be provided with at least one handrail to serve all treads and risers. Handrails shall be provided at one side or in the center of all steps. Handrails shall be installed in such a way that they can be removed only with tools.
- ~~B.~~ Steps shall be permanently marked to be clearly visible from above and below the water level in a swimming pool or spa. The edges of steps shall be outlined with a sharply contrasting colored tile or other material that is clearly visible from the deck adjacent to the steps.
- ~~C.~~ Steps may be constructed only in the shallow area of a public or semipublic swimming pool.
- ~~D.~~ Steps shall not project into a public or semipublic swimming pool or spa in a manner that creates a hazard to users.
- ~~E.~~ All tread surfaces on steps shall have slip resistant surfaces.
- ~~F.~~ Step treads shall have a minimum unobstructed horizontal depth of 10 inches. Risers shall have a maximum uniform height of 12 inches, with the bottom riser height allowed to vary  $\pm$  2 inches from the uniform riser height.

**R18-5-215. Ladders Repealed**

- ~~A.~~ At least one ladder shall be provided in the deep area of a public or semipublic swimming pool. If the width of the deep area of a swimming pool is greater than 20 feet, then one ladders shall be located on opposite sides of the deep area.
- ~~B.~~ A swimming pool or spa ladder shall be equipped with two handrails.
- ~~C.~~ All treads on ladders shall have slip resistant surfaces.
- ~~D.~~ Ladder treads shall have a minimum horizontal depth of 1 1/2 inches. The distance between ladder treads shall range from a minimum of 7 inches to a maximum of 12 inches.
- ~~E.~~ Below the waterline, there shall be a clearance of not more than 6 inches and not less than 3 inches between any ladder tread edge and the wall as measured from the side of the tread closest to the wall.

**R18-5-217. Decks and Deck Equipment Repealed**

- ~~A.~~ Decks, ramps, coping, and similar step surfaces shall be constructed of concrete or other inorganic material, have a slip resistant finish, and be easily cleanable.
- ~~B.~~ The minimum continuous unobstructed deck width, including the coping, shall be 10 feet for a public swimming pool and 4 feet for a semipublic swimming pool. The dimensional design of decks at public and semipublic swimming pools shall comply with the dimensions shown in Illustration B.
- ~~C.~~ A minimum 5 feet of deck width shall be provided on the sides and rear of any diving equipment at a public swimming pool. A minimum 4 feet of deck width shall be provided on the sides and rear of any diving equipment at a semipublic swimming pool. If diving equipment is installed at a public swimming pool, there shall be a minimum 15 feet of deck width from the swimming pool wall to the edge of the deck behind the diving equipment [See Illustration B].
- ~~D.~~ A continuous unobstructed deck width of at least 4 feet, which may include the coping, shall be provided on at least two contiguous sides and around at least 50% of the perimeter of a public or semipublic spa.



- E. Decks shall be sloped to effectively drain either to perimeter areas or to deck drains. Drainage shall remove splash water, deck cleaning water, and rain water without leaving standing water. The minimum slope of the deck shall be 1/4 inch per 1 foot. The maximum slope of the deck shall be 1 inch per 1 foot, except for ramps.
- F. Decks shall be edged to eliminate sharp corners.
- G. Site drainage shall be provided to direct all perimeter deck drainage and general site and roof drainage away from a public or semi-public swimming pool or spa. Yard drains may be required to prevent the accumulation or puddling of water in the general area of the deck and related improvements.
- H. Hose bibbs shall be provided along the perimeter of the deck so that all parts of the deck may be washed down. At a minimum, each hose bibb shall be protected against back siphonage with an atmospheric vacuum breaker. The Department may approve quick disconnect style hose bibbs.
- I. Any valve that is installed in or under any deck shall provide a minimum 10-inch diameter access cover and a valve pit to facilitate the repair and maintenance of the valve.
- J. Joints in decks shall be provided to minimize the potential for cracks due to changes in elevations or movement of the slab. The maximum voids between adjoining concrete slabs or between concrete slabs and expansion joint material shall be 3/16 inch of horizontal clearance with a maximum difference in vertical elevation of 1/4 inch. Areas where the deck joins concrete shall be protected by expansion joints to protect the swimming pool or spa from the pressures of relative movements. Construction joints where pool or spa coping meets the deck shall be watertight and shall not allow water to pass through to the underlying ground.

#### **R18-5-218. Lighting Repealed**

- A. A public or semipublic swimming pool or spa and adjacent deck areas shall be lighted by natural or artificial means when they are in use.
- B. A public or semipublic swimming pool or spa that is intended to be used at night shall be equipped with artificial lighting that is designed and spaced so that all parts of the swimming pool or spa, including the bottom, may be seen without glare.

#### **R18-5-219. Water Depths Repealed**

- A. Except as provided in subsection (B), the minimum water depth in the shallowest area of a public or semipublic swimming pool shall be 2 feet. The maximum water depth in the shallowest area of a public or semipublic swimming pool shall be 3 feet. In public swimming pools, where racing lanes terminate, the minimum depth shall be 5 feet from the water level to the point where the vertical wall is radiused to join the floor.
- B. The Department may approve a depth of less than 2 feet in a wading pool or to allow a zero depth entry swimming pool.
- C. The maximum water depth in a public or semipublic spa shall be 42 inches, measured from the water level.

#### **R18-5-220. Depth Markers Repealed**

- A. Water depths shall be conspicuously and permanently marked at or above the water level on the vertical wall and on the top of the coping or the edge of the deck next to a swimming pool.
  1. Depth markers on a vertical wall shall be positioned to be read from the water side.
  2. Depth markers on a deck shall be located within 18 inches of the side of the swimming pool and positioned to be read while standing on the deck facing the water. Depth markers that are located on a deck shall be made of slip-resistant materials.
- B. Depth markers for a public or semipublic swimming pool shall be installed at points of maximum and minimum water depth and at all points of slope change. Depth markers are required in the shallow area at 1-foot depth intervals to a depth of 5 feet. Thereafter, depth markers shall be installed at 2-foot depth intervals. Depth markers shall not be spaced at distances greater than 25 feet.
- C. Depth markers shall be located on both sides and at both ends of a public or semipublic swimming pool.
- D. Depth markers shall be in Arabic numerals with a 4-inch minimum height. Arabic numerals shall be of contrasting color to the background.
- E. In public swimming pools with racing lanes, approach warning markers shall be placed below the water level on the opposite walls at the ends of each racing lane. Warning markers shall be of contrasting color to the background. Warning markers shall be clearly visible in or out of the water from a minimum distance of 10 feet.
- F. The shallow area of a public swimming pool shall be visually set apart from the deep area of the pool by a rope and float line.
- G. Depth markers for a public or semipublic spa shall comply with all of the following:
  1. A public or semipublic spa shall have permanent depth markers with numbers that are a minimum of 4 inches high. Depth markers shall be plainly and conspicuously visible from all points of entry.
  2. The maximum depth of a public or semipublic spa shall be clearly indicated by depth markers.
  3. There shall be a minimum of 2 depth markers at each public or semipublic spa.
  4. Depth markers shall be spaced at no more than 25-foot intervals and shall be uniformly located around the perimeter of the spa.
  5. Depth markers shall be positioned on the deck within 18 inches of the side of the spa. A depth marker shall be positioned so that it can be read by a person standing on the deck facing the water.
  6. Depth markers that are on deck surfaces shall be made of slip-resistant material.

#### **R18-5-221. Diving Areas and Equipment Repealed**

- A. The dimensions of a diving area in a public or semipublic swimming pool shall comply with minimum requirements for length, width, depth, area, and other dimensions specified in Illustration A. The diving well profile in Illustration A does not apply to a special use pool that is intended for competitive diving and has been approved by Department pursuant to R18-5-248(A).
- B. Diving equipment shall be permanently anchored to the swimming pool deck. Equipment shall be rigidly constructed with sufficient bracing to ensure stability. Supports, platforms, steps, and ladders for diving equipment shall be designed to carry anticipated loads.
- C. All diving stands higher than 21 inches, measured from the deck to the top of the board, shall be provided with stairs or a ladder.
- D. Diving equipment shall have a durable finish. The surface finish shall be free of tears, splinters, or cracks that may be a hazard to users.



- ~~E.~~ Steps and ladders leading to diving boards and diving platforms shall be of corrosion-resisting materials and shall have slip-resistant tread surfaces. Step treads shall be self-draining.
- ~~F.~~ Diving boards, diving platforms, and starting blocks shall have slip-resistant tread surfaces.
- ~~G.~~ Handrails shall be provided at all steps and ladders leading to diving boards that are 1 meter or more above the water.
- ~~H.~~ Diving boards and diving platforms that are 1 meter or higher shall be protected with guard rails. Guard rails shall be at least 30 inches above the diving board or diving platform and shall extend to the edge of the swimming pool wall.
- ~~I.~~ A label shall be permanently affixed to a diving board and shall include the following:
  - 1. Manufacturer's name and address;
  - 2. Board length; and
  - 3. Fulcrum setting instructions.
- ~~J.~~ The maximum diving board height over the water is 3 meters. The maximum height of a diving platform over the water is 10 meters.
- ~~K.~~ Starting blocks shall be located in the deep end of a public swimming pool or where the depth of the water is at least 5 feet.
- ~~L.~~ There shall be a completely unobstructed clear vertical distance of 13 feet above any diving board measured from the center of the front end of the board. This clear, unobstructed vertical space shall extend horizontally at least 8 feet behind, 8 feet to each side, and 16 feet ahead of the front end of the board.

**R18-5-222. Prohibitions Against Diving; Warning Signs Repealed**

- ~~A.~~ Diving equipment is prohibited in a public or semipublic swimming pool that does not meet the minimum diving well dimensions specified in Illustration A. If a public or semipublic swimming pool does not meet the dimensional requirements prescribed in Illustration A for diving, then the owner shall prominently display at least one sign that cautions users that the swimming pool is not suitable for diving. The warning sign shall state "NO DIVING" in letters that are 4 inches or larger or display the international symbol for no diving.
- ~~B.~~ Diving from the deck of a public or semipublic swimming pool into water that is less than 5 feet deep shall be prohibited. Warning markers indicating in words or symbols that diving is prohibited shall be placed on the deck within 18 inches of the side of the shallow area of the swimming pool. A warning marker shall be positioned so that it can be read by a person standing on the deck facing the water.

**R18-5-223. Water Circulation System Repealed**

- ~~A.~~ A public or semipublic swimming pool or spa shall have a water circulation system that provides complete circulation of water through all parts of the swimming pool or spa and can maintain water chemistry and water clarity requirements.
- ~~B.~~ The water circulation system for a public or semipublic swimming pool shall have a turnover rate of at least once every 8 hours. The water circulation system of a public or semipublic spa shall have a turnover rate of at least once every 30 minutes. The water circulation system for a wading pool shall have a turnover rate of at least once every hour. The water circulation system shall be designed to give the proper turnover rate without exceeding the maximum filtration rate for the filter in R18-5-227(E).
- ~~C.~~ Water circulation system components shall comply with American National Standard/NSF International Standard Number 50, "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," NSF International, 3475 Plymouth Road, P.O. Box 130140, Ann Arbor, Michigan [revised July, 1996, and no future editions] which is incorporated by reference and on file with the Office of the Secretary of State and the Department.
- ~~D.~~ Water circulation system components shall be accessible for inspection, repair, or replacement.
- ~~E.~~ Except as provided by this subsection, water withdrawn from a public or semipublic swimming pool or spa shall not be returned unless it has been filtered and adequately disinfected. Water may be withdrawn from a swimming pool for a water slide or a water fountain without being filtered or disinfected.
- ~~F.~~ In a swimming pool complex with more than one swimming pool or where there is a combination of swimming pools and spas, each swimming pool and spa shall have a separate water circulation system.
- ~~G.~~ Hydrotherapy jets or other devices which create roiling water or similar effects in a spa shall not be connected to the water circulation system, but shall be operated through a separate system.

**R18-5-224. Piping and Fittings Repealed**

- ~~A.~~ The water velocity in discharge piping for public and semipublic swimming pools and spas shall not exceed 10 feet per second, except for copper discharge piping where the velocity shall not exceed 8 feet per second. The water velocity in suction piping shall not exceed 6 feet per second. Piping shall be sized to permit the rated flows for filtering and cleaning without exceeding the maximum head of the pump.
- ~~B.~~ Water circulation system piping and fittings shall be constructed of materials that are able to withstand 150% of normal operating pressures. Suction piping shall be of sufficient strength so that it does not collapse when there is a complete shutoff of flow on the suction side of the pump. A licensed Arizona contractor shall conduct an induced static hydraulic pressure test of the water circulation system piping at 25 pounds per square inch for at least 30 minutes. The pressure test shall be performed before the deck is poured. Pressure in the water circulation system piping shall be maintained during the deck pour.
- ~~C.~~ Water circulation piping and fittings shall be made of non-toxic, corrosion-resistant materials.
- ~~D.~~ Water circulation piping and fittings shall be installed so that piping or fittings do not project into a public or semipublic swimming pool or spa in a manner that is hazardous to users.
- ~~E.~~ Piping that is subject to damage by freezing shall have a uniform slope in one direction and shall be equipped with valves that will permit the complete drainage of the water in the swimming pool or spa.
- ~~F.~~ Piping shall be designed to drain the swimming pool or spa water by removing drain plugs, manipulating valves, or other means.
- ~~G.~~ Piping systems shall be identified by color or by stencils or labels located at conspicuous points.
- ~~H.~~ Plastic water circulation piping shall comply with American National Standard/NSF International Standard Number 14, "Plastics Piping System Components and Related Materials," NSF International, 3475 Plymouth Road, P.O. Box 130140, Ann Arbor, Michigan



[revised September, 1996, and no future editions] which is incorporated by reference and on file with the Office of the Secretary of State and the Department.

**R18-5-225. Pumps and Motors Repealed**

- A.** A pump and motor shall be provided for each water circulation system. The pump shall be sized to meet but not to exceed the flow rate required for filtering against the total head developed by the complete water circulation system. The pump shall be sized to comply with the turnover rate prescribed in R18-5-223(B).
- B.** Pumps and motors shall be readily and easily accessible for inspection, maintenance, and repair. When the pump is below the waterline, valves shall be installed on permanently connected suction and discharge lines. The valves shall be readily and easily accessible for maintenance and removal of the pump.
- C.** Each motor shall have an open, drip-proof enclosure. Each motor shall be constructed electrically and mechanically to perform satisfactorily and safely under the conditions of load in the environment normally encountered in swimming pool or spa installations. Each motor shall be capable of operating the pump under full load with a voltage variation of  $\pm 10\%$  from the nameplate rating. Each motor shall have thermal or current overload protection to provide locked rotor and running protection. Thermal or current overload protection may be built into the motor or in the line starter.
- D.** The pump shall be equipped with an emergency shut-off switch that is located within the swimming pool or spa enclosure to cut-off power to the water circulation system if someone is entrapped on a main drain or suction outlet.

**R18-5-226. Drains and Suction Outlets Repealed**

- A.** A public and semipublic swimming pool shall be equipped with at least two main drains located in the deepest part of the swimming pool or a single gravity drain that discharges to a surge tank.
- B.** Each main drain shall be covered by a grate that is not be readily removable by users. The openings in the grate shall have a total area that is at least four times the area of the drain pipe.
- C.** The spacing of the main drains shall not be greater than 20 feet on centers and not more than 15 feet from each side wall.
- D.** A minimum of two suction outlets shall be provided for each pump in a suction outlet system for a public or semipublic spa. The suction outlets shall be separated by a minimum of 3 feet or located on two different planes [that is, one suction outlet on the bottom and one on a vertical wall or one suction outlet each on two separate vertical walls]. The suction outlets shall be plumbed to draw water through them simultaneously through a common line to the pump. Suction outlets shall be plumbed to eliminate the possibility of entrapping suction.
- E.** If the suction outlet system for a public or semipublic swimming pool or spa has multiple suction outlets that can be isolated by valves, then each suction outlet shall protect against user entrapment by either an antivortex cover, a grate, or other means approved by the Department.
- F.** A public or semipublic spa may be equipped with a single gravity drain which discharges to a surge tank instead of suction outlets. The total velocity of water through grate openings of the drain shall not exceed 2 feet per second.

**R18-5-227. Filters Repealed**

- A.** Filters shall be designed, located, and constructed to permit removal of filter manhole covers or heads for inspection, replacement, or repair of filter elements or filter media. No filtration system shall be installed beneath the surface of the ground or within an enclosure without providing adequate access for inspection and maintenance.
- B.** Pressure-type filters shall be equipped with a means to release internal pressure. Each pressure filter shall be equipped with an air relief piping system connected at an accessible point near the crown. Automatic air relief systems may be used instead of manual systems. The design of a filter with an automatic air relief system as its principal means of air release shall include lids that provide a slow and safe release of pressure. The design of a separation tank used in conjunction with any filter tank shall include a manual means of air release or a lid which provides a slow and safe release of pressure as it is opened.
- C.** Pressure filter systems shall be equipped with a sight glass installed on the waste discharge pipe.
- D.** Swimming pool and spa filters shall comply with American National Standard/NSF International Standard Number 50, "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," NSF International, 3475 Plymouth Road, P.O. Box 130140, Ann Arbor, Michigan [revised July, 1996, and no future editions] which is incorporated by reference and on file with the Office of the Secretary of State and the Department.
- E.** The maximum filtration rate shall not exceed the design flow rate prescribed by the National Sanitation Foundation Standard 50 for commercial filters. In no case shall the maximum filtration rate exceed the following:
  1. The rate of filtration in a high rate sand filter shall not exceed 25 gallons/minute/square foot.
  2. The rate of filtration of a diatomaceous earth filter shall not exceed 2 gallons/minute/square foot.
  3. The rate of filtration of a cartridge filter shall not exceed 0.375 gallons/minute/square foot.

**R18-5-228. Return Inlets Repealed**

- A.** Adjustable return inlets shall be provided for each public and semipublic swimming pool or spa. Return inlets shall be designed, sized, and installed to produce a uniform circulation of water throughout the swimming pool or spa. Where surface skimmers are used, return inlets on vertical walls shall be located to help bring floating particles within range of the surface skimmers.
- B.** A public or semipublic swimming pool shall have a minimum of two return inlets, regardless of the size of the swimming pool. The number of return inlets shall be based on two return inlets per 600 square feet of surface area, or fraction thereof.
- C.** Return inlets in a public or semipublic swimming pool shall be on a closed loop piping system. Public or semipublic spas with three or more return inlets shall be on a closed loop piping system.
- D.** Where the width of a public or semipublic swimming pool exceeds 30 feet, bottom returns shall be required. Bottom returns shall be flush with the pool bottom or designed to prevent injury to users.



**R18-5-229. Gauges Repealed**

- ~~A. Pressure gauges shall be installed on the water circulation system for each public and semipublic swimming pool and spa. Pressure gauges shall be installed in accessible locations where they can be read easily.~~
- ~~B. Pressure gauges shall be installed on the inlet and outlet manifold of the filter. Pressure gauges shall read at intervals of 1 pound per square inch [psi].~~

**R18-5-230. Flow meter Repealed**

~~A public swimming pool shall be equipped with a flow meter which indicates the rate of backwash through the filter. The flow meter shall be installed between the pump and the filter on a straight section of pipe in accordance with the manufacturer's specifications in a location where it can be read easily. The flow meter shall measure the rate of flow through the filter in gallons per minute and shall be accurate to within 5% under all conditions of flow. The flow meter shall have an indicator with a range of at least 150% of the normal flow rate.~~

**R18-5-231. Strainers Repealed**

~~The water circulation system shall include a removable strainer located upstream of the pump to prevent solids, debris, hair, or lint from reaching the pump and filters. The strainer shall be made of corrosion-resistant material. A strainer shall have openings that have a total area which is equal to at least four times the area of the suction piping.~~

**R18-5-232. Overflow Collection Systems Repealed**

- ~~A. An overflow collection system shall be installed in each public or semipublic swimming pool or spa.~~
- ~~B. The overflow collection system shall be designed and constructed so that the water level of the swimming pool is maintained at the mid-point of the operating range of the system's rim or weir device.~~
- ~~C. Rim type overflow collection systems shall be installed on at least two opposite sides and have a total length of at least 50% of the perimeter of a public or semipublic swimming pool. The overflow collection system shall be capable of carrying 50% of the design capacity of the water circulation system.~~
- ~~D. If overflow gutters are used, they shall be installed continuously around the swimming pool with the lip of the gutter level throughout its perimeter. Overflow gutters shall be provided with sufficient opening at the top and width at the bottom to permit easy cleaning. The overflow gutter bottom shall be pitched 1/4 inch per foot to drainage outlets located not more than 10 feet apart. Outlet piping shall be sized to circulate at least 50% of the capacity of the water circulation system and be properly covered by a drain grate. The surge tank for the overflow gutters shall be equipped with float controls which regulate the main drain, fill line, and overflow. The system surge capacity shall not be less than one gallon for each square foot of swimming pool surface area. Stainless steel gutters and other specialty gutter systems may be used if they are hydraulically equivalent to overflow gutters.~~
- ~~E. Surface skimmers shall be recessed into the swimming pool or spa wall and shall be installed to achieve effective skimming action throughout the swimming pool or spa.
 
  1. A surface skimmer shall be provided for each 400 square feet of surface area, or fraction thereof, of a public or semipublic swimming pool. A minimum of two surface skimmers are required in a public or semipublic swimming pool. A surface skimmer shall be provided for each 200 square feet of surface area, or fraction thereof, of a public or semipublic spa.
  2. The overflow slot shall be set level and shall not be less than 8 inches in width at the narrowest section.
  3. The rate of flow through the skimmers shall be a minimum of 75% of the water circulation system capacity. Surface skimmers shall be designed to carry at least 30 gallons per minute per lineal foot of weir throat.
  4. Where three or more surface skimmers are used, they must be on a closed loop piping system.
  5. At least one surface skimmer shall be located on the side or near the corner of the swimming pool that is downwind of the area's prevailing winds.
  6. Main drain piping shall be designed to carry at least 50% of the design flow.~~
- ~~F. Mixed inlet types [for example, surface skimmers and gutters] are prohibited in a public or semipublic swimming pool.~~

**R18-5-233. Vacuum Cleaning Systems Repealed**

~~A vacuum cleaning system shall be provided for each public and semipublic swimming pool. A vacuum cleaning system shall not create a hazard or interfere with the operation or use of the swimming pool. In integral systems, a sufficient number of vacuum cleaner fittings shall be located in accessible positions at least 10 inches below the water line. Alternatively, vacuum cleaner fittings may be installed as an attachment to the surface skimmers. A pressure cleaning system may be installed in addition to the required vacuum cleaning system.~~

**R18-5-234. Disinfection Repealed**

- ~~A. An adjustable automatic chemical feeder shall be provided to ensure the continuous disinfection of the water in a public or semipublic swimming pool or spa. Timers on disinfection equipment are prohibited. Disinfection shall be accomplished by chlorination or by another method that is approved by the Department. The method of disinfection shall effectively maintain an adequate disinfectant residual in the water which is subject to field testing by methods that are easy to use and accurate.
 
  1. Chlorine disinfection equipment for a public or semipublic swimming pool shall be designed to maintain a free chlorine residual of 1.0 to 3.0 ppm. Chlorine disinfection equipment for a public or semipublic spa shall be designed to maintain a free chlorine residual of 3.0 to 5.0 ppm.
  2. Bromine disinfection equipment for a public or semipublic swimming pool shall be designed to maintain a bromine residual of 2.0 to 4.0 ppm. Bromine disinfection equipment for a public or semipublic spa shall be designed to maintain a bromine residual of 3.0 to 5.0 ppm.~~
- ~~B. The use of chlorinated isocyanurates or cyanuric acid stabilizer for disinfection and stabilization is permitted. If used, chlorinated isocyanurates shall be fed so as to maintain required disinfectant residual levels. Cyanuric acid levels, whether from chlorinated isocyanurates or from the separate addition of cyanuric acid stabilizer, shall not exceed 150 ppm.~~
- ~~C. The use of chloramines as a primary disinfectant of swimming pool or spa water is prohibited.~~
- ~~D. The addition of gaseous disinfectant directly into a public or semipublic swimming pool is prohibited. The addition of dry or liquid disinfectant directly into a public or semipublic swimming pool or spa for routine disinfection is prohibited. This prohibition does not~~



prohibit the use of liquid or dry disinfectants for shock treatment of a swimming pool or spa. A chlorine gas disinfection system shall not be used for the disinfection of water in a public or semipublic spa.

- E.** A common chlorine gas disinfection system may be utilized in separate swimming pools if separate metering and feeding devices are provided for each swimming pool.
- F.** If gaseous chlorine is used for disinfection, the following shall be provided:
  1. The chlorinator, chlorine cylinders, and associated chlorination equipment shall be located in a separate well-ventilated enclosure at or above ground level. The enclosure shall be reasonably gas-tight, noncombustible, and corrosion-resistant. The door of the enclosure shall open to the outside and shall not open directly toward the swimming pool.
  2. If chlorination equipment is placed in a room, then an exhaust fan or gravity-ventilation system shall be provided. Mechanical exhausters shall take suction 6 inches or less above the floor and discharge through corrosion-resistant louvers to a safe outside location. A gravity-ventilation system shall be designed and constructed to discharge to the outside from floor level. Fresh air intakes shall be located no closer than 3 feet above the ventilation discharge. Chlorine room exhausts shall be directed away from the swimming pool to an area which is normally unoccupied. Chlorine room fans shall be capable of completely changing the air in the room at least once a minute.
  3. Electrical switches to control lighting and ventilation in the chlorine room shall be located on the outside of the enclosure and adjacent to the door.
  4. Chlorine cylinders shall be kept in an upright position and securely anchored to prevent them from falling. Chlorine cylinders may be stored indoors or out. If stored outside, chlorine cylinders shall not be stored in direct sunlight. Chlorine cylinders shall not be stored near an elevator, ventilation system, or heat source.
  5. A warning sign shall be placed on the outside of the door to the chlorine room which cautions persons of the danger of chlorine gas within the enclosure. The warning shall be in letters 3 inches high or larger. The door to the chlorine room shall be provided with a shatter-resistant inspection window.
  6. Chlorinators shall be a solution-feed type, capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere. Chlorinators shall be designed to prevent the backflow of water into the chlorine solution container.
- G.** Granular, tablet, stick, and other forms of dry disinfectant shall be fed by an adjustable automatic feeding device.
- H.** Disinfection equipment and chemical feeders shall comply with the requirements set forth in American National Standard/NSF International, 3475 Plymouth Road, P.O. Box 130140, Ann Arbor, Michigan [revised July, 1996, and no future editions] which is incorporated by reference and on file with the Office of the Secretary of State and the Department.
- I.** If a chemical feeder is used, it shall be installed to inject solution downstream from the filter and the heater. An erosion-type feeder may be installed to feed solution to the suction side of the pump. A chemical feeder shall be wired so it cannot operate unless the filter pump is running.

#### **R18-5-235. Cross-Connection Control Repealed**

- A.** Cross-connections between the distribution system of a public water system and the water circulation system of a public or semipublic swimming pool or spa are prohibited.
- B.** Potable water for make-up water purposes may be introduced into a public or semipublic swimming pool or spa in any of the following ways:
  1. Through an over-the-rim spout with an air gap of at least twice the diameter of the pipe and not less than 6 inches above the overflow level. If an over-the-rim spout is used, it shall be located so that it does not present a tripping hazard. The open end of an over-the-rim spout shall have no sharp edges and shall not protrude more than 2 inches beyond the edge of the swimming pool or spa wall;
  2. Through a float-controlled make-up water feed tank with an air gap of at least 3 inches above the overflow level; or
  3. Through a submerged inlet that is protected against back-siphonage by at least a pressure vacuum breaker that is installed so that the bottom of the backflow prevention assembly is a minimum of 12 inches above the level of the coping.

#### **R18-5-236. Disposal of Filter Backwash, Wasted Swimming Pool or Spa Water, and Wastewater Repealed**

All sewage from plumbing fixtures, including urinals, toilets, lavatories, showers, drinking fountains, floor drains, and other sanitary facilities shall be disposed of in a sanitary manner. Filter backwash and wasted swimming pool or spa water shall be discharged into a sanitary sewer through an approved air gap, an approved subsurface disposal system, or by other means that are approved by the Department. The method of disposal shall comply with applicable disposal requirements established by a county, municipal, or other local authority. There shall be no direct physical connection between the sewer system and the water circulation system of a public or semi-public swimming pool or spa.

#### **R18-5-237. Lifeguard Chairs Repealed**

Each public swimming pool shall have at least one elevated life-guard chair for each 3,000 square feet of pool surface area or fraction thereof. At least one lifeguard chair shall be located close to the deep area of the swimming pool and shall provide a clear, unobstructed view of the swimming pool bottom. If a public swimming pool is provided with more than one lifeguard chair or the width of the public swimming pool is 45 feet or more, then lifeguard chairs shall be located on each side of the public swimming pool.

#### **R18-5-238. Lifesaving and Safety Equipment Repealed**

- A.** Public and semipublic swimming pools shall have lifesaving and safety equipment that is conspicuously and conveniently located and maintained ready for immediate use at all times.
- B.** Each public or semipublic swimming pool shall have one ring-buoy or a similar flotation device. Each ring-buoy or flotation device shall be attached to 50 feet of 1/4 inch rope.
- C.** Each semipublic and public swimming pool shall have at least one shepherd crook that is mounted on a rigid 16-foot pole.



**R18-5-239. Rope and Float Lines Repealed**

A rope and float line shall be installed across each public swimming pool on the shallow side of the break in grade between the shallow and deep portions of the pool [that is, within 1 to 2 feet of the point where the floor slope begins to exceed 1 foot in 10 feet]. The rope shall be a minimum of 3/4 inch in diameter and supported by floats spaced at intervals not greater than 7 feet. The rope and float line shall be securely fastened to wall anchors that are made of corrosion-resistant materials. The wall anchors shall be recessed or have no projection that constitutes a hazard when the float line is removed.

**R18-5-240. Barriers Repealed**

- ~~A.~~ A public swimming pool or spa and deck shall be entirely enclosed by a fence, wall, or barrier that is at least 6 feet high. A semipublic swimming pool or spa and deck shall be entirely enclosed by a fence, wall, or barrier that is at least 5 feet high. The height of the fence, wall, or barrier shall be measured on the side of the barrier which faces away from the swimming pool or spa.
- ~~B.~~ Fences or walls shall:
  1. Be constructed to afford no external handholds or foot holds;
  2. Be of materials that are impenetrable to small children;
  3. Have no openings or spacings of a size that a spherical object 4 inches in diameter can pass through; and
  4. Be equipped with a gate that opens outward from the swimming pool or spa. The gate shall be equipped with a self-closing and self-latching closure mechanism or a locking closure located at or near the top of the gate, on the pool side of the gate, and at least 54 inches above the floor.
- ~~C.~~ The distance between the horizontal components of a fence shall not be less than 45 inches apart. The horizontal members shall be located on the interior side of the fence. Spacing or openings between vertical members shall be of a size that a spherical object 4 inches in diameter cannot pass through.
- ~~D.~~ The maximum mesh size for a wire mesh or chain link fence shall be a 1 3/4 inches square.
- ~~E.~~ Masonry or stone walls shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
- ~~F.~~ If a wall of a building serves as part of the barrier around a public or semipublic swimming pool or spa, there shall be no direct access to the swimming pool or spa through the wall except as follows:
  1. Windows leading to the swimming pool or spa area shall be equipped with a screwed-in-place wire mesh screen or a keyed lock that prevents opening the window more than 4 inches.
  2. A hinged door leading to the swimming pool or spa area shall be self-closing and shall have a self-latching device. The release mechanism of the self-latching device shall be located at least 54 inches above the floor.
  3. If an additional set of doors is required by the fire code allowing access to the swimming pool or spa, they shall be self-closing and self-latching, equipped with panic bars no less than 54 inches from the floor to the bottom of the bar and designated "For Emergency Use Only."
  4. Sliding doors leading to the swimming pool or spa area are prohibited except for sliding doors that are self-closing and self-latching.
- ~~G.~~ If a barrier is composed of a combination concrete masonry unit and wrought iron, the wrought iron portion shall be installed flush with the outside vertical surface of the concrete masonry unit. The space between the wrought iron and the concrete masonry unit shall be 1/2 inch or less. The vertical members of the wrought iron shall be spaced 4 inches on center.
- ~~H.~~ Filtration, disinfection, and water circulation equipment shall be enclosed by a wall or fence.

**R18-5-241. Barriers Public Swimming Pools, Bathhouses and Dressing Rooms Repealed**

- ~~A.~~ Separate dressing rooms shall be provided for each sex. Dressing rooms shall be equipped with baskets or other checking facilities.
- ~~B.~~ All entrances to and exits from the dressing rooms shall be effectively screened to interrupt the line of sight of persons outside the dressing rooms.
- ~~C.~~ Walls and partitions of dressing rooms, locker rooms, toilets, and showers shall be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide a smooth and easily cleanable surface. Partitions shall be designed so that a waterway is provided between partitions and the floor to permit thorough cleaning of the walls and floor areas with hoses and brooms.
- ~~D.~~ Floors shall be of nonslip construction, free of cracks or openings, and sloped to adequate drains so the surface will be free of standing water and puddles. Floors shall be sloped not less than 1/4 inch per foot toward the drains to ensure positive drainage. Carpeting is prohibited.
- ~~E.~~ All furniture shall be of simple character and easily cleanable. Locker compartments, partitions, booths, furniture, and other appurtenances in dressing rooms shall be so installed or raised above the floor to permit washing down the dressing rooms and bathhouse interiors.
- ~~F.~~ An adequate number of hose bibs shall be provided for washing down the dressing room or bathhouse interior.
- ~~G.~~ Dressing rooms, toilets, and showers shall be provided with adequate lighting and ventilation.
- ~~H.~~ Toilet facilities shall be provided for each sex. For male users, there shall be one toilet and one urinal for each 100 bathers or fraction thereof. For female users, there shall be one toilet for each 50 bathers, or fraction thereof. In no case shall less than two toilets be provided for female users. Sanitary napkin dispensers shall be installed in toilet or shower areas designated for female users.
- ~~I.~~ Shower and handwashing facilities with hot and cold water and soap shall be provided for each dressing room. Hot and cold water shall be provided at all shower heads. The water heater and thermostatic mixing valve shall be inaccessible to users and shall be capable of providing two gallons per minute of 90°F water to each shower head. A minimum of two shower heads shall be provided in each dressing room. Each dressing room shall have one shower head for each 50 bathers or fraction thereof.



- J.** One lavatory with an unbreakable mirror shall be provided in each dressing room for the first 100 users. An additional lavatory and unbreakable mirror shall be provided for each additional 100 users or fraction thereof. Soap dispensers for providing either liquid or powdered soap shall be provided at each lavatory. Soap dispensers shall be made of metal or plastic with no glass permitted.

**R18-5-242. Semipublic Swimming Pools; Toilet and Lavatories Repealed**

- A.** A bathroom with a minimum of one toilet shall be provided for each sex.
- B.** Each bathroom shall have at least one lavatory. Soap dispensers for providing either liquid or powdered soap shall be provided at each lavatory. Soap dispensers shall be made of metal or plastic with no glass permitted.
- C.** An establishment that operates a semipublic swimming pool or spa and provides a private room with a toilet and lavatory for bathers shall be deemed to have complied with the requirements of this Section.

**R18-5-243. Drinking Water Fountains Repealed**

Drinking water from an approved source and dispensed through one or more drinking fountains shall be located on the deck of each public swimming pool or spa.

**R18-5-244. Wading Pools Repealed**

- A.** A wading pool is a type of public or semipublic swimming pool. The design criteria prescribed in this Article for public or semipublic swimming pools apply, except as provided in this Section.
- B.** A wading pool shall be physically set apart from public and semipublic swimming pools.
  1. A wading pool shall be separated from a public swimming pool by a minimum 4-foot high fence or partition with a self-closing, self-latching gate.
  2. A wading pool shall be separated from a semipublic swimming pool by at least 4 feet of deck.
  3. A wading pool shall not be located adjacent to the deep area of a public or semipublic swimming pool.
- C.** A wading pool shall have a maximum depth of 24 inches. Water depths may be reduced from the stated maximums and brought to zero at the most shallow point of the wading pool.
- D.** The floor of a wading pool shall be uniform with a maximum slope of 1 foot of fall in 10 feet. The floor of a wading pool shall have a slip-resistant surface.
- E.** All wading pools shall have separate equipment for water circulation and disinfection. There shall be no cross-connection between the water circulation system of a wading pool and a public or semipublic swimming pool. The water in a wading pool shall have a maximum turnover cycle of 1 hour.
- F.** At least two main drains shall be provided at the deepest point in a wading pool. Each main drain shall be covered by a grate which cannot be removed by users. The openings in the grate shall have a total area that is at least four times the area of the drain pipe. In the alternative, a wading pool may be equipped with a single gravity drain which discharges to a surge tank.
- G.** Surface skimmers shall be provided on the basis of at least one skimmer for each 200 square feet of wading pool surface area. Surface skimmer flow rates shall be the same as required for public and semipublic swimming pools. Where only one skimmer is provided, the main drain may be connected through the skimmer.
- H.** Return inlets shall be provided and arranged to produce a uniform circulation of water and maintain a uniform disinfectant residual throughout the wading pool. Where three or more return inlets are required, they shall be on a closed loop piping system.
- I.** Suction outlets in a wading pool shall have plumbing provisions so as to relieve any possibility of entrapping suction.
- J.** Gaseous chlorine shall not be used for the disinfection of wading pool water.
- K.** A drinking fountain at a height convenient to small children or a drinking fountain with a raised step shall be provided in the area of the wading pool.

**R18-5-245. Timers for Public and Semipublic Spas Repealed**

The timer for a public or semipublic spa which controls the hydro-therapy jets shall be located at least 5 feet from the spa and shall have a maximum time limit of 15 minutes.

**R18-5-246. Air Blower and Air Induction Systems for Public and Semipublic Spas Repealed**

An air blower system or air induction system for a public or semi-public spa shall comply with the following requirements:

1. The system shall prevent water backflow which could cause an electrical shock hazard.
2. Air intake sources shall not introduce water, dirt, or contaminants into the spa.
3. The system shall be properly sized for a commercial spa application.
4. If the air blower is installed within an enclosure or indoors, then adequate ventilation shall be provided.
5. Integral air passages shall be pressure tested and shall provide structural integrity to a value of 1 1/2 times the intended working pressure.

**R18-5-247. Water Temperature in Public and Semipublic Spas Repealed**

The temperature of heated water coming into a public or semipublic spa shall not exceed 104°.

**R18-5-248. Special Use Pools Repealed**

- A.** A person who intends to construct a special use pool shall notify the Department and provide plans, specifications, and a description of the intended use of the special use pool. The Department shall use best professional judgment in approving a special use pool, taking into consideration the intended use of the pool, the conditions under which it will operate, and the safety of users. The Department may consider the design requirements prescribed by an official sanctioning athletic body such as the National Collegiate Athletic Association [NCAA], National Federation of State High School Associations [NFSHA], U.S. Swimming, U.S. Diving, or the Internationale de Natation Amateur [FINA] in using best professional judgement to approve a special use pool that is intended for competitive swimming and diving.
- B.** A special use pool that is designed with exercise or training bars in the pool shall be restricted to the special use when the bars are located in the pool. The bars shall:



- 1. ~~Be constructed of durable and corrosion resistant material;~~
- 2. ~~Be sealed, welded shut, or capped at both ends to prevent retention of water within the bars;~~
- 3. ~~Bars may be removable. Removable bars shall be wedge anchored in place and the anchors shall be covered. Water-tight anchor plugs [95% efficiency] shall be provided when the bars are removed; and~~
- 4. ~~Extend not more than 4 inches from the side of the pool into the water. The minimum clear opening from the inside of the bar to the side of the swimming pool shall not be less than 2 inches.~~

**D.** ~~A special use pool that is designed with a ramp shall comply with the following:~~

- 1. ~~The ramp shall be constructed of slip resistant material;~~
- 2. ~~The slope of the ramp shall not exceed 1 foot in 12 feet;~~
- 3. ~~The width of the ramp shall be at least 3 feet;~~
- 4. ~~The ramp shall have a level platform at the top and the bottom of the ramp;~~
- 5. ~~The ramp shall be equipped with at least a 3 1/2 foot high guardrail installed on the deck and extending the length of the ramp;~~
- 6. ~~The ramp shall be constructed with return inlets located on the pool and ramp walls along the length of the ramp.~~

**R18-5-249. Variances**

- A. The Department may grant a variance from a requirement prescribed in this Article upon a demonstration by the applicant that an alternative design, material, appurtenance, or technology is equivalent to a requirement prescribed in this Article. ~~If a variance is granted, it shall be conditioned upon the applicant's use of the approved alternative.~~
- B. The Department shall not grant a variance that results in an unreasonable risk to the health of swimming pool or spa users.
- C. The applicant shall request a variance in writing on an ADEQ prescribed form. A variance request shall contain the following information:
  - 1. Identification of the requirement prescribed in this Article for which a variance is requested;
  - 2. Explanation of the reasons why the applicant cannot comply with the requirement;
  - 3. A complete description of the alternative design, material, or technology to be installed and used in the swimming pool or spa, including design plans, specifications, and a description of the cost;
  - 4. A demonstration that the alternative design, material, or technology to be installed and used in the swimming pool or spa is equivalent to the requirement in this Article and will not result in an unreasonable risk to users; and
  - 5. A statement that the applicant will perform reasonable requirements prescribed by the Department that are conditions of a variance.
- D. The applicant shall submit a request for a variance with an application for design approval. The Department shall determine whether the application for design approval and the variance request are complete. Within 30 days after the date of the submittal of the application for design approval and the variance request, the Department shall issue a written notice to the applicant that states that the request for a variance and the application for design approval are complete or which states that the request for a variance or the application for design approval is incomplete and identifies specific information deficiencies in the application for design approval or the variance request.
- E. The Department may convene an advisory committee consisting of representatives of public and semipublic swimming pool and spa owners, public and semipublic swimming pool and spa building contractors, professional engineers, and county environmental and health departments to make a recommendation on a variance request.
- F. If the Department grants the request for a variance, the Department ~~shall~~ may identify the requirement for which the variance is granted, specify any conditions to the grant of a variance, and issue a design approval. If the Department denies the request for a variance, the Department shall issue a notice of intent to deny the request for a variance to the applicant. The notice shall state the reasons for the denial of the request for a variance and shall include a description of the applicant's right to request a hearing on the denial of the variance request pursuant to A.R.S. § 41-1092.03 and to request an informal settlement conference pursuant to A.R.S. § 41-1092.06. If the Department denies a request for a variance, the Department may either deny the application for design approval or issue a design approval that requires compliance with the requirement for which the variance is requested.
- G. In considering a request for a variance from a requirement prescribed in this Article, the Director shall consider the following factors:
  - 1. The intended use of the public or semipublic swimming pool or spa;
  - 2. The safety of the alternative design, material, or technology for which a variance is requested; and
  - 3. The cost and other economic considerations associated with requiring compliance with the requirement prescribed in this Article as compared to the alternative for which a variance is requested.



**NOTICES OF FINAL RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

**NOTICE OF FINAL RULEMAKING**

**TITLE 15. REVENUE**

**CHAPTER 10. DEPARTMENT OF REVENUE – GENERAL ADMINISTRATION**

[R17-118]

**PREAMBLE**

- |   |                                 |
|---|---------------------------------|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R15-10-301  | Amend                           |
| R15-10-302  | Amend                           |
| R15-10-303  | Amend                           |
| R15-10-304  | Amend                           |
| R15-10-305  | Amend                           |
| R15-10-306  | Amend                           |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general), the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 42-1005(A)(1).  
 Implementing statute: A.R.S. § 42-1129(A), A.R.S. § 42-3053(B), A.R.S. §42-5015.
- 3. The effective date of the rule:**  
 July 1, 2017
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
 The Department is requesting an effective date of July 1, 2017 to coincide with the beginning of its fiscal year.
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**  
 Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 138, January 13, 2017  
 Notice of Proposed Rulemaking: 23 A.A.R. 108, January 13, 2017
- 5. The agency's contact person who can answer questions about the rulemaking:**  
 Name: Christie Comanita  
 Address: Department of Revenue  
 1600 W. Monroe St., Div. Code 3  
 Phoenix, AZ 85007  
 Telephone: (602) 716-6791  
 Fax: (602) 716-7995  
 E-mail: ccomanita@azdor.gov  
 Web site: http://www.azdor.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**  
 The Department's justifications and reasons for making or amending the rules addressed by this Notice are as follows:  
 Title 15 Chapter 10 Article 3 of the Arizona Administrative Code ("A.A.C.") promulgates rules that provide details of the procedure by which taxpayers may make electronic payment to the Department for various tax types. Generally, those rules require that taxpayers owing certain types of taxes over a specific threshold amount make payments by electronic means. A.R.S. § 42-1129(A) sets out the threshold amount (currently an annual tax liability of \$20,000) over which the Department may make rules to require electronic payment of taxes. Some of the rules are outdated and only require certain tax types to pay electronically. In addition, as of January 2017 the Department becomes the single point of processing of tax returns including tax payments for municipalities



and had to implement a new system through which returns were filed and payments made. As a result, the Department is updating the rules to eliminate outdated rules related to the payment of taxes by electronic means and to supplement existing rules to make it easier for taxpayers to pay their taxes to the Department of revenue through its online system. Additionally, the rules will expand the tax types required to remit payment electronically and allow certain other tax types that fall below the threshold amount to use the electronic payment system. The changes amend and remove rule language that is ambiguous, outmoded, or otherwise imprecise in explaining the Department's current position to affected taxpayers. Notably, the amending language:

- Removes language that referred to the old system whereby the Department contracted with third party data collection centers to process electronic payments on its behalf as that system is no longer used;
- Includes language to refer to the Department's new electronic payment system through the use of the Department's web site, AZTaxes.gov and the luxury tax web site ALTO;
- Removes language that is no longer applicable as a result of lapse of time;
- Broadens the tax types and threshold amounts subject to payment by electronic means;
- Broadens the tax types that can voluntarily participate in electronic payments and provide the procedures to be followed.

The benefits of this rulemaking include the following:

- Reducing the time taken to process remittances from taxpayers to the Department;
- Reducing the time taken to process refunds by the Department to taxpayers;
- Reducing the risk associated with payments getting lost or misplaced as a result of the use of the mail system or when processing payments internally;
- Enabling the Department to better handle its cash flow and inter-governmental payments.

*R15-10-301.* R15-10-301 defines terms used in the rule. There are some definitions that should be included because of use of the new system being used to process electronic payments. As a result the Department is amending R15-10-301 to exclude the definition and concepts related to the data collection center which is no longer used to process electronic payments and to add the definition of AZTaxes.gov and ALTO which are the new Department portals through which electronic tax payments may be initiated and processed.

*R15-10-302.* A.R.S. § 42-1129 permits the Department to issue rules to mandate that any taxpayer that owed \$20,000 or more for the preceding taxable year in connection with any tax administered by the Department (except individual income tax) to pay the tax liability on or before the payment date prescribed by law electronically. R15-10-302 expands the tax types that the Department previously required to remit payment electronically to include transaction privilege tax and tobacco tax. R15-10-302 now requires taxpayers with transaction privilege tax annual liability of over \$20,000 to remit tax payments electronically. In addition, it requires taxpayers with withholding tax liability of over \$20,000 annually (previously \$80,000 annually or \$20,000 quarterly) to remit tax payments electronically.

*R15-10-303.* R15-10-303 allows taxpayers that do not meet the \$20,000 tax liability threshold amount and taxpayers with liquor tax liability of any amount to participate in the electronic payment process.

*R15-10-304.* R15-10-304 alters the type of information included in the ACH debit authorization agreement to reflect the current requirements.

*R15-10-305.* R15-10-305 expands the methods permitted for electronic payments to include the Department's new payment portals on AZTaxes.gov and ALTO. It also allows payors to remit payment via wire transfer as is done now on a regular basis and remove the requirement for payors to state a reason why payment cannot be remitted through ACH debit or credit.

*R15-10-306.* R15-10-306 amends the procedure for initiating electronic payment of taxes to include the Department's AZTaxes.gov and ALTO portals and to remove references to the old data collection center procedures.

**7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:**

Not applicable

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:**

Data used in preparation of the economic, small business, and consumer impact statement includes figures based on current EFT filers and the projected increase in the number of filers due to the lowering of the liability threshold and the addition of other tax types. Benefits will accrue to the state general fund. Compliance by entities not already required to remit by means of electronic funds transfer will necessitate a change in payment methods and may involve changes in processing and accounting systems. It is expected that the benefits of the rule will be greater than the costs.



- 10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**  
None
- 11. **An agency’s summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:**  
None received
- 12. **All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §41-1052 and A.R.S. §41-1055 shall respond to the following questions:**
  - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable
  - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
- 13. **A list of any incorporated by reference material as specified in A.R.S. §41-1028 and its location in the rule:**  
Not applicable
- 14. **Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**  
Not applicable
- 15. **The full text of the rules follows:**

**TITLE 15. REVENUE**

**CHAPTER 10. DEPARTMENT OF REVENUE – GENERAL ADMINISTRATION**

**ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS**

Section

- R15-10-301. Definitions
- R15-10-302. General Requirements
- R15-10-303. Voluntary Participation
- R15-10-304. Authorization Agreement
- R15-10-305. Methods of Electronic Funds Transfer
- R15-10-306. Procedures for Payment

**ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS**

**R15-10-301. Definitions**

The following definitions apply for purposes of this Article:

- 1. “ACH” means an automated clearing house that is a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.
- 2. “ACH credit” means an electronic funds transfer generated by a payor, cleared through an ACH for deposit to the Department account.
- 3. “ACH debit” means an electronic transfer of funds from a payor’s account, as indicated on a signed authorization agreement, that is generated at a payor’s instruction on AZTaxes.gov and cleared through an ACH for deposit to the Department account.
- 4. “Addenda record” means the information required by the Department in an ACH credit transfer or wire transfer, in the approved electronic format prescribed in R15-10-306(B).
- 5. “ALTO” is the Arizona Luxury Tax Online web site, [luxury.aztaxes.gov](http://luxury.aztaxes.gov) or such other web site as the Department may determine from time to time, and means the Department’s luxury taxpayer service center web site that provides luxury taxpayers with the ability to conduct transactions, make electronic funds transfer payments and review tax account information over the internet.
- ~~5-6.~~ “Authorized means of transmission” means the deposit of funds into the Department account by electronic funds transfer.
- 7. “AZTaxes.gov” means the Department’s taxpayer service center web site, or such other web site as the Department may determine from time to time, that provides taxpayers with the ability to conduct transactions, make electronic funds transfer payments and review tax account information over the internet.
- ~~6-8.~~ “Cash Concentration or Disbursement plus” or “CCD plus” means the standardized data format approved by the National Automated Clearing House Association for remitting tax payments electronically.
- 7. ~~“Data Collection Center” means a third party who, under contract with the Department, collects and processes electronic funds transfer payment information from payors.~~
- ~~8-9.~~ “Department” means the Arizona Department of Revenue.
- ~~9-10.~~ “EFT Program” means the payment of taxes by electronic funds transfer as specified by this Article.



- ~~10-11.~~ “Electronic Funds Transfer” or “EFT” means any transfer of funds initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape means the electronic transfer of funds from one bank account to another via computer based systems, where the person initiating the transfer orders, instructs, or authorizes a financial institution to debit or credit an account using the methods specified in these rules.
- ~~11-12.~~ “Financial institution” means a state or national bank, a trust company, a state or federal savings and loan association, a mutual savings bank, or a state or federal credit union.
- ~~12-13.~~ “Payment information” means the data that the Department requires of a payor making an electronic funds transfer payment.
- ~~13-14.~~ “Payor” means a taxpayer or payroll service.
- 14. “Payor information number” means a confidential code assigned to identify the payor and allow the payor to communicate payment information to the Data Collection Center.
- 15. “Payroll service” means a third party, under contract with a taxpayer to provide tax payment services on behalf of the taxpayer.
- 16. “State Servicing Bank” means a bank designated under A.R.S. Title 35, Chapter 2, Article 2.
- 17. “Tax type” means a tax that is subject to electronic funds transfer, each of which shall be considered a separate category of payment.
- 18. “Wire transfer” or “Fedwire” means an instantaneous electronic funds transfer initiated by a payor.

**R15-10-302. General Requirements**

- ~~A.~~ For tax periods beginning on or after January 1, 1993, the following taxpayers shall remit the following tax payments:
  - ~~1.~~ Taxpayers who, under A.R.S. Title 43, Chapter 4, had an average Arizona quarterly withholding tax liability during the prior tax year of \$100,000 or more shall remit Arizona withholding tax payments by an authorized means of transmission;
  - ~~2.~~ Corporations which had an Arizona income tax liability during the prior tax year of \$100,000 or more shall remit Arizona estimated income tax payments by an authorized means of transmission.
- ~~B.~~ For tax periods beginning on or after January 1, 1994, the following taxpayers shall remit the following tax payments:
  - ~~1.~~ Taxpayers who, under A.R.S. Title 43, Chapter 4, had an average Arizona quarterly withholding tax liability during the prior tax year of \$50,000 or more shall remit Arizona withholding tax payments by an authorized means of transmission;
  - ~~2.~~ Corporations which had an Arizona income tax liability during the prior tax year of \$50,000 or more shall remit Arizona estimated income tax payments by an authorized means of transmission.
- ~~C.A.~~ For tax periods beginning on or after January 1, 1997, the following taxpayers shall remit the following tax payments:
  - ~~1.~~ Taxpayers who, under A.R.S. Title 43, Chapter 4, had an average Arizona quarterly withholding tax liability during the prior tax year of \$20,000 or more shall remit Arizona withholding tax payments by an authorized means of transmission;
  - ~~2.~~ Corporations which had an Arizona income tax liability during the prior tax year of \$20,000 or more shall remit Arizona estimated income tax payments by an authorized means of transmission.
- B. For tax periods beginning on or after July 1, 2017, taxpayers who, under A.R.S. Title 43, Chapter 4, had an average Arizona quarterly withholding tax liability during the prior tax year of \$5,000 or more shall remit Arizona withholding tax payments by an authorized means of transmission.
- D.C. The average Arizona quarterly withholding tax liability is determined by dividing the taxpayer’s total Arizona withholding tax liability for the calendar year by 4.
- ~~E.~~ For tax periods beginning on or after July 1, 1997, taxpayers who, under A.R.S. Title 42, Chapters 8, 8.1, 8.2, 8.3, 9.1, and 9.2 had an annual tax liability during the prior calendar year of \$1 million or more shall remit these tax payments by an authorized means of transmission.
- D. For tax periods beginning on and after July 1, 2017, any taxpayer who under A.R.S. Title 42 Chapter 5 and Chapter 6, Articles 1 and 3, had an annual tax liability during the prior calendar year of \$20,000 or more shall remit these tax payments by an authorized means of transmission.
- E. For tax periods after July 1, 2015, tobacco tax taxpayers are required to remit tobacco tax payments by an authorized means of transmission.

**R15-10-303. Voluntary Participation**

- ~~A.~~ For tax periods beginning on or after January 1, 1993, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than \$100,000 may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- ~~B.~~ For tax periods beginning on or after January 1, 1994, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than \$50,000 may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- ~~C.A.~~ For tax periods beginning on or after January 1, 1997, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than \$20,000 may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with by R15-10-304.
- ~~D.~~ For tax periods beginning on or after July 1, 1997, a taxpayer who, under A.R.S. Title 42, Chapters 8, 8.1, 8.2, 8.3, 9.1, and 9.2 had an annual tax liability during the prior calendar year, of less than \$1 million dollars may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- B. For tax periods beginning on or after July 1, 2017, a taxpayer who, during the prior tax year, had an average quarterly withholding tax liability of less than \$5,000 may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with by R15-10-304.
- E.C. For tax periods beginning on and after January 1, 1999; July 1, 2017, any taxpayer who has a luxury liquor tax liability may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.



**D.** For tax periods beginning on and after July 1, 2017, any taxpayer who under Title 42 Chapter 5 and Chapter 6, Articles 1 and 3, had an annual tax liability of less than \$20,000 during the prior calendar year may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.

**F.E.** A taxpayer authorized to participate in the EFT Program shall provide at least 30 days prior written notice to the Department if the taxpayer elects to cease voluntary participation in the EFT Program.

#### **R15-10-304. Authorization Agreement**

**A.** The payor shall register for an account and complete an electronic funds transfer authorization agreement on AZTaxes.gov, ALTO or ACH Credit Form prescribed by the Department, as applicable, or such other in the form prescribed by the Department at least 30 days prior to initiation of the first applicable transaction. The form shall include the following information:

1. Name and address of the taxpayer;
2. The taxpayer's tax identification number including a federal identification number, withholding tax identification number, transaction privilege tax identification number or other tax identification number, as appropriate;
- ~~2. Federal identification number of the taxpayer;~~
- ~~3. Withholding number of the taxpayer, if applicable;~~
- ~~4. Transaction privilege tax license number of taxpayer, if applicable;~~
- ~~5. Type of action being taken;~~
- ~~6. Tax type;~~
- ~~7. Method of payment;~~
- ~~8-3. Name and phone number of taxpayer's EFT contact person;~~
- ~~9-4. Name and address of any payroll service, if applicable;~~
- ~~10-5. Name and phone number of the payroll service's EFT contact person; if applicable;~~
- ~~11. Financial institution name and address;~~
- ~~12. Type of bank account;~~
- ~~13. Name on bank account;~~
- ~~14. Bank account number; and,~~
- ~~15. Bank routing transit number.~~
6. For payments initiated on AZTaxes.gov or ALTO, the information must include the type of bank account, the bank account number and the bank routing transit number.

**B.** A payor shall submit a revised authorization agreement to the Department at least 30 days prior to any change in the information required in subsection (A).

#### **R15-10-305. Methods of Electronic Funds Transfer**

- A.** Payors shall use the ACH debit transfer method available through registration on AZTaxes.gov or ALTO to remit payment by electronic funds transfer unless the Department grants permission to use the ACH credit method.
- B.** The Department may authorize under a form prescribed by the Department in R15-10-304 the use of the ACH credit method for payors desiring to use this method. A payor that chooses to use the ACH credit method shall provide the payment information required in R15-10-306(B)(2).
- C.** The Department may withdraw permission to use the ACH credit method of payment if the payor shows disregard for the requirements and specifications of these rules by failing to:
1. Make timely electronic funds transfer payments,
  2. Provide timely payment information,
  3. Provide the required addenda record with the electronic funds transfer payment, or
  4. Make correct payment.
- D.** Payors who, for reasons beyond their control, are unable to use their established method of payment may request that the Department accept deposits to the Department account via wire transfer in accordance with the following:
1. The payor shall contact the Department, ~~state the reason which prevents timely compliance under either the ACH debit method or ACH credit method,~~ and obtain verbal approval to wire transfer the tax payment to the Department account prior to initiating the transmission.
  2. Approved wire transfers shall be accompanied by an addenda record, that includes the same information required for ACH credit transfers under R15-10-306(B)(2).

#### **R15-10-306. Procedures for Payment**

- A.** Payors using the ACH Debit Method shall ~~report payment information to the Data Collection Center log in to their account on AZTaxes.gov or ALTO as appropriate and, unless registering for the first time, shall arrange for electronic payment of the applicable taxes no later than the time prescribed by the State Servicing Bank AZTaxes.gov or ALTO on the last business day before the due date of the payment.~~
- ~~4. Payment information shall be communicated by one of the following means: automatically to the Department through AZTaxes.gov or ALTO, as applicable, once payment arrangements have been made by payors and accepted by AZTaxes.gov or ALTO.~~
- ~~a. Operator assisted communication of payment information made orally by rotary or touch tone telephone,~~
  - ~~b. Touch tone communication of payment information made by entering data via key pad of a touch tone telephone, or~~
  - ~~e. Computer terminal linked with the Data Collection Center.~~
  2. Payors shall communicate the following payment information to the Data Collection Center:
    - a. ~~Payor information number,~~
    - b. ~~Taxpayer identification number,~~
    - e. ~~Tax type,~~



- d. ~~Payment amount,~~
  - e. ~~Tax period,~~
  - f. ~~Payment due date, and~~
  - g. ~~Payment sequence number.~~
- B.** Payors authorized to use the ACH credit method shall initiate payment transactions directly with a financial institution in a timely manner to ensure that the payment is deposited to the Department account on or before the payment due date.
1. All ACH credit transfers shall be in the CCD-plus addenda format. Payments not in this format may be rejected.
  2. The addenda format, as specified in subsection (B)(1), shall include the following information:
    - a. Taxpayer identification number,
    - b. Tax type,
    - c. Payment amount,
    - d. Tax period,
    - e. ~~Payment sequence number,~~
    - f. ~~Taxpayer verification number,~~
    - g. ~~Department account number, and~~
    - h. ~~American Bank Association 9-digit number of the receiving bank.~~



**NOTICES OF RULEMAKING DOCKET OPENING**

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

**NOTICE OF RULEMAKING DOCKET OPENING  
BOARD OF CHIROPRACTIC EXAMINERS**

[R17-119]

1. **Title and its heading:** 4, Professions and Occupations  
**Chapter and its heading:** 7, Board of Chiropractic Examiners  
**Article and its heading:** 5, Licensing  
 6, Acupuncture Certification  
 8, Continuing Education  
 13, Charges  
 14, Business Entities  
**Section numbers:** R4-7-502, R4-7-503, R4-7-602, R4-7-801, R4-7-1301, R4-7-1401, R4-7-1403, R4-7-1404 (As a part of this rulemaking, the Board may add delete or modify additional Sections as necessary)
2. **The subject matter of the proposed rule:**  
 The Board proposed to amend rules to address: legislative changes, outdated rules, and to reduce the regulatory burden on professionals.  
 The Board is also proposing to promulgate rules regarding “Percutaneous Therapy” Technique.  
 An exemption from Executive Order 2017-02 was provided for this rulemaking by Mara Mellstrom, Policy Advisor, Governor’s Office, in an email dated February 22, 2017.
3. **A citation to all published notices relating to the proceeding:**  
 Notice of Proposed Rulemaking: 23 A.A.R. 1847, July 14, 2017 (*in this issue*)
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Justin Bohall, Executive Director  
 Address: 1951 W. Camelback Rd., Suite 330  
 Phoenix, AZ 85015  
 Telephone: (602) 864-5088  
 Fax: (602) 864-5099  
 E-mail: Rules@chiroboard.az.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 The Board will accept comments Monday through Friday from 8:00 a.m. until 5:00 p.m. at the address listed under item #4. The public and stakeholder comment period will end 30 days from the date the Notice of Proposed Rulemaking is published by the Secretary of State’s office in the Arizona Administrative Register. Information regarding an oral proceeding is included in the Notice of Proposed Rulemaking.
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
 To be determined.



NOTICE OF RULEMAKING DOCKET OPENING
CORPORATION COMMISSION - FIXED UTILITIES

[R17-120]

- 1. Title and its heading: 14, Public Service Corporations; Corporations and Associations; Securities Regulation
Chapter and its heading: 2, Corporation Commission - Fixed Utilities
Article and its heading: 12, Arizona Universal Service Fund
Section numbers: R14-2-1201 through R14-2-1217 (Parts A and B)

2. The subject matter of the proposed rule: First, the rulemaking organizes the current Arizona Universal Service Fund rules into a Part A entitled "High Cost Fund." Second, the rulemaking creates a new Part B entitled "Arizona Universal Service Support for Schools and Libraries" to institute a program to assist Arizona schools and libraries to fund the necessary broadband facilities to obtain broadband connectivity. These new rules expand the Arizona Universal Service Fund to provide state matching funds for special construction projects as provided for under the Federal Communications Commission's E-rate Modernization Orders.

Adoption of the rules proposed herein on a permanent basis is intended to repeal the rules as adopted in the Emergency Rulemaking, effective March 29, 2017.

The agency docket number, if applicable: RT-00000H-97-0137

- 3. A citation to all published notices relating to the proceeding: Notice of Emergency Rulemaking: 23 A.A.R. 865, April 21, 2017
Notice of Proposed Rulemaking: 23 A.A.R. 1869, July 14, 2017 (in this issue)

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

Name: Maureen Scott, Deputy Chief Counsel Litigation and Appeals, Legal Division
Address: Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-3402
Fax: (602) 542-4870
E-mail: mscott@azcc.gov

Name: Pamela Genung, Public Utilities Manager, Utilities Division
Address: Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-0664
Fax: (602) 542-2129
E-mail: pgenung@azcc.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

An oral proceeding will be held on August 14, 2017 at 10:00 a.m. at the Arizona Corporation Commission, 1200 W. Washington St., Hearing Room 1, Phoenix, AZ 85007.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined



**NOTICE OF RULEMAKING DOCKET OPENING**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**ENVIRONMENTAL REVIEWS AND CERTIFICATION**

[R17-121]

- 1. Title and its heading:** 18, Environmental Quality
- Chapter and its heading:** 5, Department of Environmental Quality – Environmental Reviews and Certification
- Articles and their headings:** 2, Public and Semipublic Swimming Pools and Spas
- Section numbers:** R18-5-201 through R18-5-249 (*Sections may be added, deleted, or modified as necessary*)
- 2. The subject matter of the proposed rule:**  
 The Arizona Department of Environmental Quality (ADEQ) is required by A.R.S. § 49-104(B)(12) to have rules prescribing minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place. The Arizona Department of Environmental Quality (ADEQ) is developing changes to these rules. ADEQ held a stakeholder meeting on April 17, 2017. ADEQ has engaged with a group of interested stakeholders to develop proposed rule changes. ADEQ will publish proposed rule changes with this Notice of Rulemaking Docket Opening. Please check the website: <http://www.azdeq.gov/draft-and-proposed-rule-water-quality-division> for further details and the opportunity to sign up to receive e-mail updates.
- 3. A citation to all published notices relating to the proceeding:**  
 Notice of Proposed Rulemaking: 23 A.A.R. 1882, July 14, 2017 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Anakaren Lemus  
 Telephone: (602) 771-2212, or (800) 234-5677, ext. 771-2214  
 Fax: (602) 771-4834  
 E-mail: [lemus.anakaren@azdeq.gov](mailto:lemus.anakaren@azdeq.gov)  
 Address: Department of Environmental Quality  
 Water Quality Division  
 1110 W. Washington St.  
 Phoenix, AZ 85007  
 Web Site: <http://www.azdeq.gov/draft-and-proposed-rule-water-quality-division>
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 Written comments on this rulemaking may be submitted at any time to the person referenced in item # 4 above. Formal written comments for the rulemaking record should be submitted after publication of the Notice of Proposed Rulemaking in the *Arizona Administrative Register* and prior to the close of public record date, which is 5:00 p.m., August 14, 2017.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
 ADEQ filed a Notice of Proposed Rulemaking (see page 1882 of this issue) along with this Notice of Rulemaking Docket Opening.



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2017-02

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

[M17-23]

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2017, as a notice to the public regarding state agencies' rulemaking activities.

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, job creators and entrepreneurs are especially hurt by red tape and regulations;

WHEREAS, all government agencies of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace, or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court of the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To comply with a state statutory requirement.
g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. All directors of state agencies subject to this Order shall engage their respective regulated or stakeholder communities to solicit comment on which rules the regulated community believes to be overly burdensome and not necessary to protect consumers, public health, or public safety. Each agency shall submit a report regarding the aforementioned information to the Governor's Office no later than September 1, 2017.
4. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, "person," "rule," and "rulemaking" have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.



6. This Executive Order expires on December 31, 2017.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this Eleventh day of January in the Year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
**SECRETARY OF STATE**

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**REGISTER INDEXES**

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The *Register* is published by volume in a calendar year (See “General Information” in the front of each issue for more information).

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

PN = Proposed new Section  
PM = Proposed amended Section  
PR = Proposed repealed Section  
P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
SPM = Supplemental proposed amended Section  
SPR = Supplemental proposed repealed Section  
SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**

FN = Final new Section  
FM = Final amended Section  
FR = Final repealed Section  
F# = Final renumbered Section

**SUMMARY RULEMAKING****PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
PSMM = Proposed Summary amended Section  
PSMR = Proposed Summary repealed Section  
PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**

FSMN = Final Summary new Section  
FSMM = Final Summary amended Section  
FSMR = Final Summary repealed Section  
FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING****PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
PEM = Proposed Expedited amended Section  
PER = Proposed Expedited repealed Section  
PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
SPEM = Supplemental Proposed Expedited amended Section  
SPER = Supplemental Proposed Expedited repealed Section  
SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**

FEN = Final Expedited new Section  
FEM = Final Expedited amended Section  
FER = Final Expedited repealed Section  
FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING****EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
PXM = Proposed Exempt amended Section  
PXR = Proposed Exempt repealed Section  
PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
SPXR = Supplemental Proposed Exempt repealed Section  
SPXM = Supplemental Proposed Exempt amended Section  
SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULEMAKING**

FXN = Final Exempt new Section  
FXM = Final Exempt amended Section  
FXR = Final Exempt repealed Section  
FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**

EN = Emergency new Section  
EM = Emergency amended Section  
ER = Emergency repealed Section  
E# = Emergency renumbered Section  
EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

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TR = Terminated proposed repealed Section  
T# = Terminated proposed renumbered Section

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RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

Table with 12 columns: January, February, March, April, May, June. Each month has sub-columns for Date Filed and Effective Date. Rows list dates from 1/1 to 1/31 and corresponding effective dates.



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from March 3, 2017 to September 22, 2017.



### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor’s Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit [www.grrc.state.az.us](http://www.grrc.state.az.us).

### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2017

[M16-300]

DEADLINE FOR PLACEMENT ON AGENDA	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 22, 2016	Tuesday December 20, 2016	Wednesday December 28, 2016	Wednesday January 4, 2017
Tuesday December 27, 2016	Tuesday January 24, 2017	Tuesday January 31, 2017	Tuesday February 7, 2017
Tuesday January 24, 2017	Tuesday February 21, 2017	Tuesday February 28, 2017	Tuesday March 7, 2017
Tuesday February 21, 2017	Tuesday March 21, 2017	Tuesday March 28, 2017	Tuesday April 4, 2017
Tuesday March 21, 2017	Tuesday April 18, 2017	Tuesday April 25, 2017	Tuesday May 2, 2017
Tuesday April 25, 2017	Tuesday May 23, 2017	Wednesday May 31, 2017	Tuesday June 6, 2017
Tuesday May 23, 2017	Tuesday June 20, 2017	Tuesday June 27, 2017	Thursday July 6, 2017
Tuesday June 20, 2017	Tuesday July 18, 2017	Tuesday July 25, 2017	Tuesday August 1, 2017
Tuesday July 25, 2017	Tuesday August 22, 2017	Tuesday August 29, 2017	Wednesday September 6, 2017
Tuesday August 22, 2017	Tuesday September 19, 2017	Tuesday September 26, 2017	Tuesday October 3, 2017
Tuesday September 26, 2017	Tuesday October 24, 2017	Tuesday October 31, 2017	Tuesday November 7, 2017
Tuesday October 24, 2017	Tuesday November 21, 2017	Tuesday November 28, 2017	Tuesday December 5, 2017
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday December 27, 2017	Wednesday January 3, 2018

\*Materials must be submitted by **5 P.M.** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.