



# Arizona Administrative REGISTER

Published by the Department of State ~ Office of the Secretary of State

Vol. 25, Issue 41

~ Administrative Register Contents ~

October 11, 2019

**Information** ..... 2980  
**Rulemaking Guide** ..... 2981

**RULES AND RULEMAKING**

**Proposed Rulemaking, Notices of**  
4 A.A.C. 8 Acupuncture Board of Examiners ..... 2983

**Proposed Expedited Rulemaking, Notices of**  
9 A.A.C. 7 Department of Health Services - Radiation Control ..... 2995

**Final Expedited Rulemaking, Notices of**  
20 A.A.C. 6 Department of Insurance ..... 3008

**Exempt Rulemaking, Notices of**  
15 A.A.C. 5 Department of Revenue - Transaction Privilege and Use Tax Section ..... 3010  
15 A.A.C. 10 Department of Revenue - General Administration ..... 3023

**OTHER AGENCY NOTICES**

**Docket Opening, Notices of Rulemaking**  
4 A.A.C. 8 Acupuncture Board of Examiners ..... 3028

**Public Information, Notices of**  
Department of Environmental Quality - Water Quality Standards ..... 3029

**Substantive Policy Statement, Notices of Agency**  
4 A.A.C. 8 Acupuncture Board of Examiners ..... 3030

**GOVERNOR'S OFFICE**

**Governor's Executive Order 2019-01**  
Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting  
Consumers Against Fraudulent Activities ..... 3031

**INDEXES**

Register Index Ledger ..... 3033  
Rulemaking Action, Cumulative Index for 2019 ..... 3034  
Other Notices and Public Records, Cumulative Index for 2019 ..... 3042

**CALENDAR/DEADLINES**

Rules Effective Dates Calendar ..... 3045  
Register Publishing Deadlines ..... 3047

**GOVERNOR'S REGULATORY REVIEW COUNCIL**  
Governor's Regulatory Review Council Deadlines ..... 3048

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# From the Publisher

## ABOUT THIS PUBLICATION

The authenticated pdf of the *Administrative Register* (A.A.R.) posted on the Arizona Secretary of State's website is the official published version for 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 *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 notices of rules terminated by the agency and rules that have expired.

## 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). Rulemaking activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA, and other state statutes.

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 authenticated pdf of *Code* chapters posted on the Arizona Secretary of State's website are the official published version of rules in the A.A.C. 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 page.

# Arizona Administrative REGISTER

Vol. 25

Issue 41

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**ADMINISTRATIVE REGISTER**  
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.

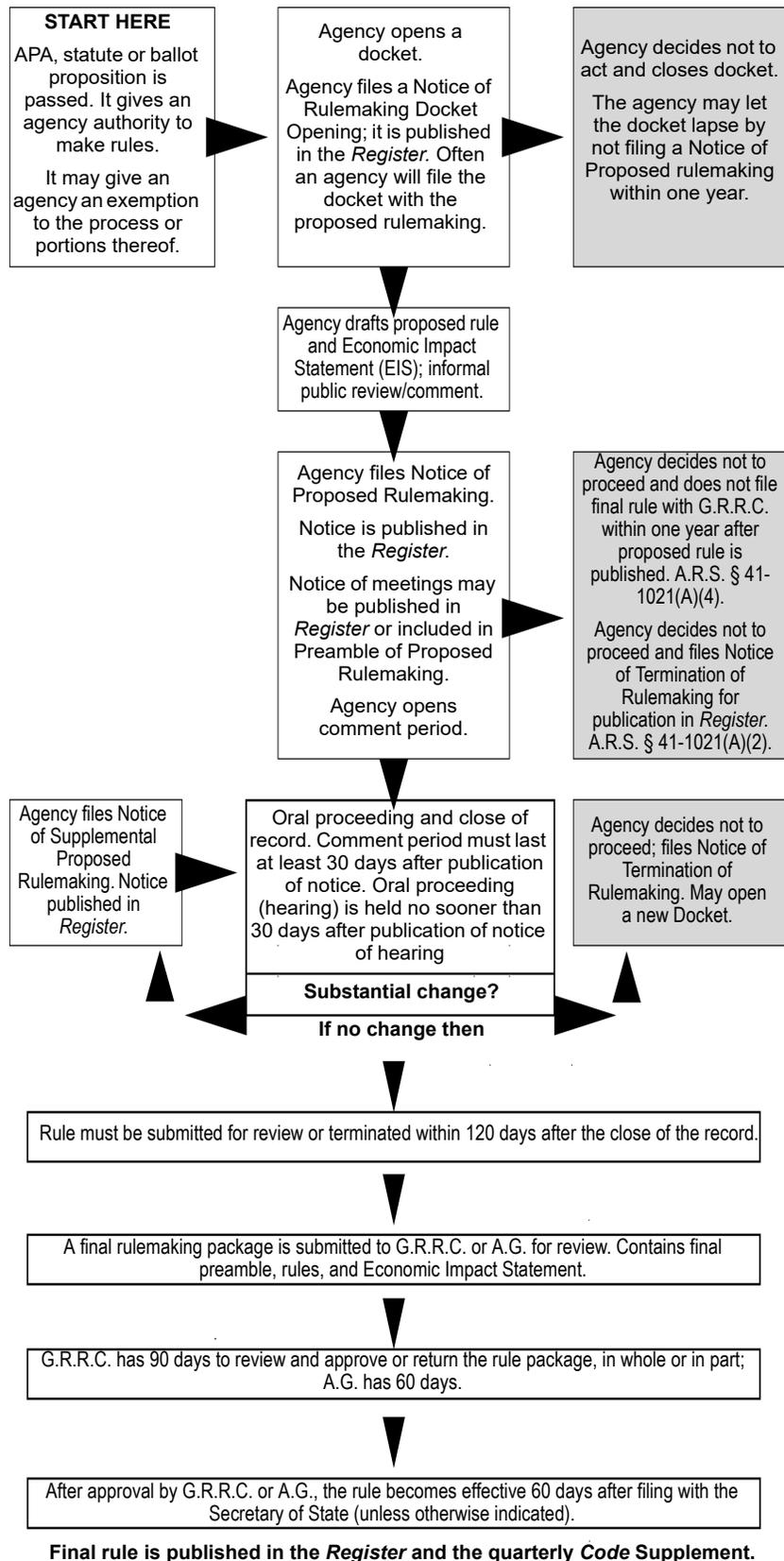
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## 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 8. ACUPUNCTURE BOARD OF EXAMINERS**

[R19-204]

**PREAMBLE**

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R4-8-101  | Amend                           |
| R4-8-103  | Amend                           |
| R4-8-105  | Amend                           |
| Table 1   | Amend                           |
| R4-8-106  | Amend                           |
| R4-8-203  | Amend                           |
| R4-8-204  | Amend                           |
| R4-8-206  | Amend                           |
| R4-8-207  | Amend                           |
| R4-8-301  | Amend                           |
| R4-8-303  | Amend                           |
| R4-8-304  | Amend                           |
| R4-8-601  | Amend                           |
| R4-8-602  | Amend                           |
| Article 7   | Amend                           |
| R4-8-701  | New Section                     |
| R4-8-702  | Repeal                          |
| R4-8-704  | Repeal                          |
| R4-8-706  | Repeal                          |
- 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. § 32-3903(A)(1)  
 Implementing statute: A.R.S. §§ 32-3903, 32-3921, 32-3922, 32-3924, 32-3925, 32-3927, 32-3951, and 41-1001.01
- 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: 25 A.A.R. 3028, October 11, 2019 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**  
 Name: David Geriminsky, Executive Director  
 Address: Acupuncture Board of Examiners  
 1740 W. Adams St., Suite 3005  
 Phoenix, AZ 85007  
 Telephone: (602) 364-0145  
 Fax: (602) 542-3093  
 E-mail: director@acupuncture.az.gov  
 Web site: acupunctureboard.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:**

The Board is updating its rules to address concerns raised by the Auditor General in a report dated September 14, 2016, and to address the Governor's request that agencies eliminate rules that are antiquated, redundant, or otherwise unnecessary. An exemption from Executive Order 2017-02 was provided for this rulemaking by Emily Rajakovich, Director of Boards and Commissions, in an e-mail dated January 12, 2018.

**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 believes the rulemaking will have minimal economic impact on applicants, licensees, small businesses, and consumers of acupuncture services. The rulemaking updates the Board's rules but does not change them substantially.

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

Name: David Geriminsky, Executive Director  
Address: Acupuncture Board of Examiners  
1740 W. Adams St., Suite 3005  
Phoenix, AZ 85007  
Telephone: (602) 364-0145  
Fax: (602) 542-3093  
E-mail: director@acupuncture.az.gov  
Web site: acupunctureboard.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:**

The agency does not intend to hold public hearings on this rulemaking, unless a public hearing is requested within 30 days of publication of this rulemaking notice. The agency will accept comments during regular business hours at the address listed in item 4. E-mail comments will be accepted at the e-mail address provided in item 4.

**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 are many federal laws applicable to health-care professionals and the provision of health care. However, none of these laws is directly applicable to this rulemaking.

**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 8. ACUPUNCTURE BOARD OF EXAMINERS**

**ARTICLE 1. GENERAL PROVISIONS**

Section	
R4-8-101.	Definitions
R4-8-103.	<del>Change of Mailing Address, E-mail Address, or Telephone Number</del> Providing Notice to the Board
R4-8-105.	<del>Time frames</del> Time Frames for Licensure, Certification, and Approval
Table 1.	<del>Time frames</del> Time Frames (in days)
R4-8-106.	Fees



## ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE

Section	
R4-8-203.	Application for Acupuncture License
R4-8-204.	Renewal of an Acupuncture License
R4-8-206.	Continuing Education Requirement
R4-8-207.	Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

## ARTICLE 3. AURICULAR ACUPUNCTURE CERTIFICATION

Section	
R4-8-301.	Application for Auricular Acupuncture Certificate
R4-8-303.	Renewal of an Auricular Acupuncture Certificate
R4-8-304.	Notice of Change in <u>Employment</u> or Supervisor

## ARTICLE 6. COMPLAINTS; HEARING PROCESURES; DISCIPLINE

Section	
R4-8-601.	Making a Complaint
R4-8-602.	Complaint Procedures

## ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

Section	
R4-8-701.	<del>Expired Regulatory Bill of Rights</del>
R4-8-702.	<del>Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact</del> <del>Repealed</del>
R4-8-704.	<del>Oral Proceedings</del> <del>Repealed</del>
R4-8-706.	<del>Written Criticism of Rule</del> <del>Repealed</del>

## ARTICLE 1. GENERAL PROVISIONS

### R4-8-101. Definitions

The definitions in A.R.S. § 32-3901 apply to this Chapter. Additionally, in this Chapter:

“ACAOM” means the Accreditation Commission for Acupuncture and Oriental Medicine.

“Acupuncture program” means a Board-approved training designed to prepare a student for the NCCAOM examination and licensure.

“Acupuncture student” means an individual enrolled in an acupuncture or auricular acupuncture training program.

“Acupuncturist” means an individual licensed or certified by the Board to practice acupuncture in this state.

“Administrative completeness review” means the Board’s process for determining whether an applicant provided a complete application packet.

“Applicant” means an individual who applies to the Board for an initial or renewal license or certificate.

“Application packet” means the fees, forms, documents, and additional information the Board requires to be submitted by an applicant or on an applicant’s behalf.

“Approved continuing education” means a planned educational experience the Board determines meets the criteria in R4-8-408.

“Auricular acupuncture” means a therapy in which the five-needle protocol is used to treat alcoholism, substance abuse, or chemical dependency.

“Clean needle technique” means a manner of needle sterilization and use that avoids the spread of disease and infection, protects the public and the patient, and complies with state and federal law.

“Clinical hours” means actual clock hours that a student spends providing patient care under the supervision of an individual licensed under R4-8-203 or R4-8-208.

“Course” means a systematic learning experience that assists a participant to acquire knowledge, skills, and information relevant to the practice of acupuncture.

“Day” means calendar day.

“Five-needle protocol” means a therapy, developed by NADA to treat alcoholism, substance abuse, or chemical dependency, which involves inserting five needles into specific points on the outer ear.

“Hour” means at least 50 minutes of course participation.

“Letter of concern” means an alternative sanction that informs a licensee or certificate holder that, while the evidence does not warrant disciplinary action, the Board believes the licensee or certificate holder should change certain practices and failure to change the practices may result in disciplinary action. A letter of concern is a public document that may be used in future disciplinary proceedings.

“License year” means the time between the date on which a license is issued and the date on which the license expires.



“NADA” means the National Acupuncture Detoxification Association.

“NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.

“Respondent” means an individual accused of violating A.R.S. Title 32, Chapter 39 or this Chapter.

“Successful completion of a clean needle technique course” means a course participant:

Attended the course, and

Received a passing score on an examination or other confirmation from the course provider that evidences the participant mastered the course content.

“Supervisor” means an acupuncturist licensed by the Board who is responsible for the oversight and direction of an acupuncture student or a certificate holder.

**R4-8-103. ~~Change of Mailing Address, E-mail Address, or Telephone Numbers~~ Providing Notice to the Board**

- A.** The Board shall communicate with a licensee, certificate holder, or a person holding an approval from the Board using the contact information provided to the Board. To ensure timely communication from the Board, a licensee, certificate holder, or person holding an approval from the Board shall notify the Board, in writing, within 30 days of any change of mailing address (giving both the old and the new address), e-mail address, or residential, business, or mobile telephone number.
- B.** To enable the Board to fulfill the requirement at A.R.S. § 32-3951(F), a licensee shall notify the Board, in writing, within 10 days of any change in employer. The licensee shall include in the notice the name of the new employer and the name and contact information for the licensee’s supervisor.
- C.** A licensee shall comply with the reporting requirements at A.R.S. § 32-3208.

**R4-8-105. ~~Time frames~~ Time Frames for Licensure, Certification, and Approval**

- A.** For the purpose of A.R.S. § 41-1073, the Board establishes the ~~time frames~~ time frames listed in Table 1. An applicant or a person requesting an approval from the Board and the Executive Director of the Board may agree in writing to extend the substantive review and overall ~~time frames~~ time frames by no more than 25% of the overall ~~time frame~~ time frame.
- B.** The administrative completeness review ~~time frame~~ time frame begins when the Board receives an application packet or a request for approval. During the administrative completeness review ~~time frame~~ time frame, the Board shall notify the applicant or person requesting approval that the application packet or request for approval is either complete or incomplete. If the application packet or request for approval is incomplete, the Board shall specify in the notice what information is missing.
- C.** An applicant or person requesting approval whose application packet or request for approval is incomplete, shall submit the missing information to the Board within the time to complete listed in Table 1. Both the administrative completeness review and overall ~~time frames~~ time frames are suspended from the date of the Board’s notice under subsection (B) until the Board receives all of the missing information.
- D.** Upon receipt of all missing information, the Board shall notify the applicant or person requesting approval that the application packet or request for approval is complete. The Board shall not send a separate notice of completeness if the Board grants or denies a license, certificate, or approval within the administrative completeness ~~time frame~~ time frame listed in Table 1.
- E.** The substantive review ~~time frame~~ time frame listed in Table 1 begins on the date of the Board’s notice of administrative completeness.
- F.** If the Board determines during the substantive review that additional information is needed, the Board shall send the applicant or person requesting approval a comprehensive written request for additional information.
- G.** An applicant or person requesting approval who receives a request under subsection (F), shall submit the additional information to the Board within the time for response listed in Table 1. Both the substantive review and overall ~~time frames~~ time frames are suspended from the date of the Board’s request until the Board receives the additional information.
- H.** An applicant or person requesting approval may receive a 30-day extension of the time provided under subsection (C) or (G) by providing written notice to the Board before the time expires. If an applicant or person requesting approval fails to submit to the Board the missing or additional information within the time provided under Table 1 or the time as extended, the Board shall close the applicant’s or person’s file. To receive further consideration, an applicant or person requesting approval whose file is closed shall re-apply.
- I.** Within the overall ~~time frame~~ time frame listed in Table 1, the Board shall:
  1. Grant a license, certificate, or approval if the Board determines ~~that~~ the applicant or person requesting approval meets all criteria required by statute and this Chapter; or
  2. Deny a license, certificate, or approval if the Board determines ~~that~~ the applicant or person requesting approval does not meet all criteria required by statute and this Chapter.
- J.** If the Board denies a license, certificate, or approval, the Board shall send the applicant or person requesting approval a written notice explaining:
  1. The reason for denial, with citations to supporting statutes or rules;
  2. The applicant’s or person’s right to appeal the denial by filing an appeal under A.R.S. Title 41, Chapter 6, Article 10;
  3. The time for appealing the denial; and
  4. The applicant’s or person’s right to request an informal settlement conference.
- K.** If a ~~time frame’s~~ time frame’s last day falls on a Saturday, Sunday, or official state holiday, the next business day is the ~~time frame’s~~ time frame’s last day.



**Table 1. Time-frames Time Frames (in days)**

Type of license, certificate, or approval	Authority	Administrative Completeness Time-frame Time Frame	Time to Complete	Substantive Review Time-frame Time Frame	Time to Respond	Overall Time-frame Time Frame
Acupuncture License	A.R.S. § 32-3924; R4-8-203	20	30	40	30	60
Visiting Professor Certificate	A.R.S. § 32-3926; R4-8-208	20	30	40	30	60
Auricular Acupuncture Certificate	A.R.S. § 32-3922; R4-8-301	20	30	40	30	60
Auricular Acupuncture Training Program	A.R.S. § 32-3922; R4-8-401	20	30	40	30	60
Acupuncture Program	A.R.S. § 32-3924(2); R4-8-403	20	30	40	30	60
Clinical Training Program	A.R.S. § 32-3924(2); R4-8-403	20	30	40	30	60
Clean Needle Technique Course	A.R.S. § 32-3924; R4-8-402	20	30	40	30	60
Continuing Education Approval	A.R.S. § 32-3925; R4-8-409	20	30	40	30	60
Renewal of License or Certificate	A.R.S. § 32-3925; R4-8-204 or R4-8-303	20	30	40	30	60
Extension of Visiting Professor Certificate	A.R.S. § 32-3926(C); R4-8-208	20	30	40	30	60
Reinstatement of License	A.R.S. § 32-3925(D); R4-8-205	20	30	40	30	60

**R4-8 106. Fees**

- A. Under the authority provided at A.R.S. §§ 32-3927 and 41-1008(C), the Board establishes and shall collect the following fees:
1. Application for an acupuncture license: \$150;
  2. Issuance of an initial acupuncture license: \$275;
  3. Renewal of an acupuncture license: \$275;
  4. Additional fee for late renewal of an acupuncture license: \$100;
  5. Application for an auricular acupuncture certificate: \$75;
  6. Issuance of an initial auricular acupuncture certificate: \$75;
  7. Renewal of an auricular acupuncture certificate: \$75;
  8. Visiting professor certificate: \$600;
  9. Extension of a visiting professor certificate: \$600; and
  10. Fingerprint processing for a state and federal criminal records check: \$30; and
  - ~~10-11.~~ Duplicate license or certificate: \$50.
- B. Except as provided in subsections (B)(1) through (B)(3) or as required under A.R.S. § 41-1077, all fees are nonrefundable. The Board shall refund the fee paid under subsection (A)(2) or (A)(6) if:
1. The Board denies a license or certificate to an applicant,
  2. The Board closes the file of an applicant under R4-8-105, or
  3. An applicant withdraws an application.

**ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE**

**R4-8-203. Application for Acupuncture License**

- A. To be licensed to practice acupuncture, an applicant shall submit an application packet to the Board that includes:
1. An application, on a form provided by the Board, that provides the following information about the applicant:
    - a. Name;
    - b. Other names by which the applicant has been known;
    - c. Date of birth;
    - d. Social Security number;
    - e. Name of the applicant’s employer and name and contact information for the applicant’s supervisor, or if applicable, an indication the applicant is self-employed;
    - ~~e.f.~~ Home, business, and e-mail addresses;



- ~~f.g.~~ Home, business, and mobile telephone numbers;
  - ~~g.h.~~ A statement of whether the applicant has ever been permitted by law to practice a health-care profession, including acupuncture, in this or another state, territory, or district of the United States, or another country or subdivision of another country, and if so:
    - i. A list of the jurisdictions in which the applicant has been permitted by law to practice a health-care profession;
    - ii. The number of each license;
    - iii. The date each license was issued;
    - iv. The date each license expired or expires;
    - v. Limitations, if any, for each license;
    - vi. Whether each license was granted by endorsement, examination, or another means;
  - ~~h.i.~~ A statement of whether the applicant is certified by the NCCAOM, and if so, whether the certification is active and current, and the dates of issuance and expiration;
  - ~~i.j.~~ If not certified by the NCCAOM, a statement of whether the applicant:
    - i. Has passed all the following NCCAOM modules: Point Location; Foundations of Oriental Medicine; Biomedicine; and Acupuncture; or
    - ii. Has passed the State of California Acupuncture Licensing Examination;
  - ~~j.k.~~ A statement of whether the applicant has completed an acupuncture program accredited within the United States or another country or subdivision of another country, and if so, the date of program completion;
  - ~~k.l.~~ A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, deny the applicant a license or certificate to practice acupuncture, and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
  - ~~l.m.~~ A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, revoke, suspend, limit, restrict, or take any other action regarding the applicant’s license or certificate to practice acupuncture, and if so, the name of the jurisdiction taking the action, the action taken, date of the action, and an explanation of the circumstances;
  - ~~m.n.~~ A statement of whether the applicant has ever been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
  - ~~n.o.~~ A statement of whether the applicant has ever had a claim for malpractice or a lawsuit filed against the applicant alleging professional malpractice or negligence in the practice of acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
  - ~~o.p.~~ A statement of whether the applicant has any condition that may impair the applicant’s ability to practice acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
  - ~~p.q.~~ A statement of whether the applicant has ever resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
  - ~~q.r.~~ A statement of whether the applicant has ever had a health-care facility terminate, restrict, or take any other action regarding the applicant’s employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances;
2. An official record or document that relates to the applicant’s explanation of an item under subsections ~~(A)(1)(k)~~ (A)(1)(l) through ~~(A)(1)(q)~~ (A)(1)(r);
  3. Documentation of one of the following:
    - a. Certification from the NCCAOM or its successor;
    - b. Certification by another certifying body recognized by the Board;
    - c. Certification as a result of passing a licensing or certifying examination in acupuncture; or
    - d. Authorization by law to practice acupuncture in another state, district, or territory of the United States, or another country or subdivision of another country with licensing standards substantially similar to those in this Chapter that has not been revoked;
  4. Documentation of successfully completing a Board-approved clean needle technique course. A copy of the certificate of completion showing the name of the course and the date on and location at which the course was completed is acceptable documentation;
  5. A ~~2" X 2"~~ photograph, taken within the last year, that shows the front of the applicant’s face;
  6. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board~~ As required under A.R.S. § 41-1080(A), the specified documentation of citizenship or alien status indicating the applicant’s presence in the U.S. is authorized under federal law; and
  7. A complete set of fingerprints that meet the criteria of the Federal Bureau of Investigation and are taken by a law enforcement agency or other qualified entity; and
  8. ~~The amount charged by the Department of Public Safety to process fingerprints for a state and federal criminal records check; and~~
  9. ~~8.~~ The application and initial licensing fees prescribed by the Board under R4-8-106(A)(1) and (A)(2) and the fingerprint processing fee prescribed under R4-8-106(A)(10).
- B.** In addition to the materials required under subsection (A), an applicant shall provide evidence ~~that~~ the applicant completed at least 1,850 hours of training in acupuncture, including at least 800 clinical hours, by having submitted directly to the Board an official transcript from each school at which the applicant attended a Board-approved acupuncture program showing:
1. The name and address of the school,



2. The dates on which the applicant attended the school,
  3. The courses and clinical training completed by the applicant,
  4. The number of hours in each course or clinical training,
  5. The grade or score obtained by the applicant in each course or clinical training, and
  6. Whether the applicant received a diploma or degree from the school.
- C. In addition to complying with subsections (A) and (B), an applicant shall sign, ~~and date, and have notarized~~ an affidavit ~~that indicates~~ indicating all information provided in the application packet, including any accompanying documents submitted by or on behalf of the applicant, are true, complete, and correct.

#### R4-8-204. Renewal of an Acupuncture License

- A. An acupuncture license expires 12 months after the date issued.
- B. The Board shall provide a licensee with ~~60 days~~ 60 days' notice of the need to renew. It is the responsibility of the licensee to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.
- C. If a licensee fails to submit a renewal application packet as described in subsection (D) on or before the expiration date, the licensee shall cease the practice of acupuncture.
- D. To renew an acupuncture license, a licensee shall submit to the Board:
  1. A renewal application that provides the following information about the licensee:
    - a. Name;
    - b. License number;
    - c. ~~Business name;~~ Name of the licensee's employer and name and contact information for the licensee's supervisor, or if applicable, an indication the licensee is self-employed and their business name;
    - d. Home, business, and e-mail addresses;
    - e. ~~Home;~~ Business, and home or Business and mobile telephone numbers;
    - f. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country denied the licensee a license or certificate to practice acupuncture and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
    - g. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country revoked, suspended, limited, restricted, or took other action regarding the license of the licensee and if so, the name of the jurisdiction taking action against the license, the action taken, date of the action, and an explanation of the circumstances;
    - h. A statement of whether during the last 12 months the licensee has been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
    - i. A statement of whether during the last 12 months a claim for malpractice or a lawsuit was filed against the licensee alleging professional malpractice or negligence in the practice of acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
    - j. A statement of whether during the last 12 months the licensee has any condition that may impair the licensee's ability to practice acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
    - k. A statement of whether during the last 12 months the licensee resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
  1. A statement of whether during the last 12 months the licensee had a health-care facility terminate, restrict, or take any other action regarding the licensee's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances;
  2. An affirmation that the licensee completed the continuing education required under R4-8-206;
  3. An affirmation that the licensee is in compliance with the requirements at A.R.S. § 32-3211;
  4. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board~~ If the documentation previously submitted under R4-8-203(A)(6) was a limited form of work authorization issued by the federal government, evidence the work authorization has not expired;
  5. The renewal fee required under R4-8-106(A)(3); and
  6. The licensee's dated signature affirming ~~that~~ the information provided is accurate, true, and complete.

#### R4-8-206. Continuing Education Requirement

- A. A licensee shall complete at least 15 hours of ~~approved~~ Board-approved continuing education ~~per~~ during each license year.
- B. The Board shall award hours in an approved continuing education as follows:
  1. Seminar or workshop: One hour of continuing education for each contact hour;
  2. Course at an accredited educational institution: 15 hours of continuing education for each semester hour;
  3. Self-study, online, or correspondence course: Hours of continuing education determined by the course provider;
  4. Teaching an approved continuing education: One hour of continuing education for each hour taught;
  5. Having an article on the practice of acupuncture or traditional East-Asian medicine published in a peer-reviewed professional journal or in a text book: 15 hours of continuing education;
  6. Attending a Board meeting: ~~One~~ A maximum of four cumulative hour hours for attending ~~one meeting~~ meetings during a year;
  7. Obtaining certification in cardio-pulmonary resuscitation: One hour of continuing education for each hour of training required to maintain certification; and
  - 7-8. Having a text book published relating to the practice of acupuncture or traditional East-Asian medicine: 15 hours of continuing education.



- C. The Board shall limit the number of hours of approved continuing education awarded as follows:
  - 1. No more than 30 percent of the required hours may be obtained from teaching an approved continuing education. Hours may be obtained from teaching a particular approved continuing education only once during each license year. No hours may be obtained from participating as a member of a panel at an approved continuing education; and
  - 2. Hours that exceed the maximum required during a license year may not be carried over to a subsequent license year.
- D. A licensee shall obtain a certificate or other evidence of attendance from the provider of each approved continuing education attended that includes the following:
  - 1. Name of the licensee;
  - 2. ~~License number of the licensee;~~
  - 3. ~~Name of the approved continuing education;~~
  - 4. ~~Name of the continuing education provider;~~
  - 5. ~~Name of the entity that approved the continuing education;~~
  - 6. ~~Date, time, and location of the approved continuing education; and~~
  - 7. ~~Number of hours of approved continuing education.~~
- E. ~~To enable a licensee to comply with audit requirements in R4-8-207, A~~ the licensee shall maintain the evidence of attendance described in subsection (D) ~~for two years through the license year following the license year in which the evidence was obtained. And~~ The licensee shall make the evidence available to the Board under R4-8-207 and as otherwise required under this Chapter.

**R4-8-207. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement**

- ~~A. When notice of the need to renew a license is provided, the~~ The Board shall ~~also~~ regularly provide notice of an audit of continuing education records to a random sample of licensees.
- ~~B. The Board shall focus an audit on continuing education obtained during the license year before the current license year.~~
- ~~C. A licensee subject to a continuing education an audit shall submit the documentation evidence of attendance required under R4-8-206(D) at the same time that the licensee submits the renewal application packet required under R4-8-204(D) within 30 days after receiving the notice provided under subsection (A).~~
- ~~D. If a licensee fails to submit the required documentation with the renewal application packet before the date of expiration, the license expires evidence of attendance within the 30 days specified under subsection (C) or if the evidence submitted indicates noncompliance with the continuing education requirement, the Board may initiate disciplinary action.~~

**ARTICLE 3. AURICULAR ACUPUNCTURE CERTIFICATION**

**R4-8-301. Application for Auricular Acupuncture Certificate**

To be certified as an auricular acupuncturist to provide auricular acupuncture services in a Board-approved alcoholism, substance abuse, or chemical dependency program, an applicant shall submit an application packet to the Board that includes:

- 1. An application, on a form provided by the Board, that provides the following information about the applicant:
  - a. Name;
  - b. Other names by which the applicant has been known;
  - c. Date of birth;
  - d. Social Security number;
  - e. Home, ~~business,~~ and e-mail addresses;
  - f. Home, ~~business,~~ and mobile telephone numbers;
  - g. A statement of whether the applicant has ever been permitted by law to practice a health-care profession, including auricular acupuncture, in this or another state, territory, or district of the United States, or another country or subdivision of another country, and if so:
    - i. A list of the jurisdictions in which the applicant has been permitted by law to practice auricular acupuncture a health-care profession, including auricular acupuncture;
    - ii. The number of each license or certificate;
    - iii. The date each license or certificate was issued;
    - iv. The date each license or certificate expired or expires;
    - v. Limitations, if any, for each license or certificate;
    - vi. Current status of each license or certificate; and
    - vii. Whether each license or certificate was granted by endorsement, examination, or another means;
  - h. A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, deny the applicant a license or certificate to practice a health-care profession, including auricular acupuncture, and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
  - i. A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, revoke, suspend, limit, restrict, or take any other action regarding the applicant's license or certificate to practice a health-care profession, including auricular acupuncture, and if so, the name of the jurisdiction taking the action, the action taken, date of the action, and an explanation of the circumstances;
  - j. A statement of whether the applicant has ever been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
  - k. A statement of whether the applicant has ever had a claim for malpractice or a lawsuit filed against the applicant alleging professional malpractice or negligence in the practice of auricular acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;



- l. A statement of whether the applicant has any condition that may impair the applicant's ability to practice auricular acupuncture, safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
  - m. A statement of whether the applicant has ever resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
  - n. A statement of whether the applicant has ever had a health-care facility terminate, restrict, or take any other action regarding the applicant's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances;
2. An official record or document that relates to the applicant's explanation of an item under subsections (1)(h) through (1)(n);
  3. The application and initial certification fees prescribed by the Board under R4-8-106(A)(5) and (A)(6) and on and after January 1, 2019, the fingerprint processing fee prescribed under R4-8-106(A)(10);
  4. Documentation of successfully completing a Board-approved:
    - a. Training program in auricular acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency. A copy of the certificate of completion showing the name, date, and location of the course is acceptable documentation; and
    - b. Clean needle technique course. A copy of the certificate of completion showing the name, date, and location of the course is acceptable documentation;
  5. The name, license number, and telephone number of the ~~Arizona-licensed~~ Arizona-licensed acupuncturist who will supervise the applicant if the applicant is certified;
  6. A ~~2" X 2"~~ photograph, taken within the last year, that shows the front of the applicant's face ~~and that the applicant signs on the back or the white frame around the photograph;~~
  7. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board As required under A.R.S. § 41-1080(A), the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law; and~~
  8. The applicant's dated ~~and notarized~~ signature affirming ~~that~~ the information provided in the application, including any accompanying documents submitted by or on behalf of the applicant, are true and complete.
  9. On and after January 1, 2019, a complete set of fingerprints that meet the criteria of the Federal Bureau of Investigation and are taken by a law enforcement agency or other qualified entity;

#### R4-8-303. Renewal of an Auricular Acupuncture Certificate

- A. An auricular acupuncture certificate expires 12 months after the date issued.
- B. The Board shall provide a certificate holder with ~~60 days~~ 60 days' notice of the need to renew. It is the responsibility of the certificate holder to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.
- C. If a certificate holder fails to submit a renewal application packet as described in subsection (D) on or before the expiration date, the certificate holder shall cease the practice of auricular acupuncture.
- D. To renew an auricular acupuncture certificate, a certificate holder shall submit to the Board:
  1. A renewal application that provides the following information ~~listed~~ about the certificate holder:
    - a. Name;
    - b. Certificate number;
    - e. ~~Renewal date;~~
    - ~~d.c.~~ The name, address, and telephone number of the alcoholism, substance abuse, or chemical dependency facility at which the certificate holder works;
    - ~~e.d.~~ Residential and e-mail addresses;
    - ~~f.e.~~ Residential and mobile telephone numbers;
    - ~~g.f.~~ A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country denied the certificate holder a license or certificate to practice auricular acupuncture, and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
    - ~~h.g.~~ A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country revoked, suspended, limited, restricted, or took other action regarding the license or certificate of the certificate holder and if so, the name of the jurisdiction taking action, the action taken, date of the action, and an explanation of the circumstances;
    - ~~i.h.~~ A statement of whether during the last 12 months the certificate holder has been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
    - ~~j.i.~~ A statement of whether during the last 12 months a claim for malpractice or a lawsuit was filed against the certificate holder alleging professional malpractice or negligence in the practice of auricular acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
    - ~~k.j.~~ A statement of whether during the last 12 months the certificate holder has any condition that may impair the certificate holder's ability to practice auricular acupuncture, safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
    - ~~l.k.~~ A statement of whether during the last 12 months the certificate holder resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances;
    - ~~m.l.~~ A statement of whether during the last 12 months the certificate holder had a health-care facility terminate, restrict, or take any other action regarding the certificate holder's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances; and



- ~~n.m.~~ The name, license number, and telephone number of the licensed acupuncturist who supervises the certificate holder;
  - 2. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board. If the documentation previously submitted under R4-8-302(6) was a limited form of work authorization issued by the federal government, evidence the work authorization has not expired;~~
  - 3. The renewal fee required under R4-8-106(A)(7); and
  - 4. The certificate holder's dated signature affirming ~~that~~ the information provided is accurate, true, and complete.
- E. The Board does not have authority to reinstate an expired auricular acupuncture certificate. An individual whose auricular acupuncture certificate expires because of failure to renew timely under subsection (D) may apply for certification by complying with R4-8-301.

**R4-8-304. Notice of Change in Employment or Supervisor**

- A. A certificate holder shall provide written notice to the Board within 10 days after one of the following occurs:
  - 1. The certificate holder changes employment from one approved alcoholism, substance abuse, and chemical dependency program to another;
  - 2. The certificate holder ceases to practice as an auricular acupuncturist; or
  - 3. The licensed acupuncturist supervising the certificate holder changes.
- B. A certificate holder required to provide notice under subsection (A), shall include the following information in the notice:
  - 1. Name and certificate number of the certificate holder;
  - 2. Name and address of the approved alcoholism, substance abuse, and chemical dependency program at which the certificate holder is employed; and
  - 3. Name, license number, and telephone number of the licensed acupuncturist supervising the certificate holder; or
  - 4. A statement that the certificate holder is not practicing as an auricular acupuncturist.

**ARTICLE 6. COMPLAINTS; HEARING PROCEDURES; DISCIPLINE**

**R4-8-601. Making a Complaint**

- A. Anyone, including the Board, may file a complaint that alleges a violation of A.R.S. Title 32, Chapter 39 or this Chapter.
- B. A complaint may be filed against:
  - 1. An individual licensed under A.R.S. § 32-3921 and R4-8-203;
  - 2. An individual certified under A.R.S. § 32-3922 and R4-8-301;
  - 3. An individual certified under A.R.S. § 32-3926 and R4-8-208; or
  - 4. An individual who is not exempt under A.R.S. § 32-3921(B) and believed to be practicing acupuncture without a license or certificate issued under A.R.S. Title 32, Chapter 39 and this Chapter.
- C. To file a complaint, an individual shall provide ~~the following information, either orally or in writing,~~ to the Board:
  - 1. ~~Date;~~ A completed complaint form, which is available on the Board's web site; or
  - 2. ~~Name, address, and telephone number of the individual complained against;~~ Other writing that includes the individual's name and contact information, name of the individual complained against, and a description of the allegations.
  - 3. ~~Name, address, and telephone number of the complainant;~~
  - 4. ~~If the complaint is filed on behalf of a third party, the name and address of the third party;~~
  - 5. ~~The date on which the complaint was last discussed with the individual complained against or a representative of an involved business:~~
    - a. ~~A statement of whether the last discussion of the complaint was by telephone or in person, and~~
    - b. ~~The name of the individual with whom the complaint was last discussed; and~~
  - 6. ~~A detailed description, including dates, of the events alleged to constitute a violation of A.R.S. Title 32, Chapter 39 or this Chapter.~~
- D. ~~A complainant shall file a complaint within 90 days of the events alleged to constitute a violation of A.R.S. Title 32, Chapter 39 or this Chapter.~~
- E. ~~A complainant may withdraw a complaint at any time by providing notice to the Board.~~

**R4-8-602. Complaint Procedures**

- ~~A.~~ The Board shall review a complaint to determine whether it meets the requirements under R4-8-601. If a complaint does not meet the requirements under R4-8-601, the Board shall provide written notice to the complainant that the complaint is dismissed without further action.
- ~~B.~~ ~~A.~~ If Within 90 days after receiving a complaint under R4-8-601, the Board determines that a complaint meets the requirements under R4-8-601, the Board shall assess whether the complaint alleges a violation of A.R.S. Title 32, Chapter 39 or this Chapter and:
  - 1. ~~Dismiss the complaint if the Board determines that the allegation, if true, does not amount to a violation of A.R.S. Title 32, Chapter 39 or this Chapter and provide written notice of the dismissal to the complainant; or Serve a copy of the complaint on the respondent and provide the respondent with 20 days in which to submit to the Board:~~
    - a. A response in which the respondent admits, denies, or explains each allegation in the complaint; and
    - b. Records and other evidence relevant to the complaint allegations; and
  - 2. ~~Serve a copy of the complaint on the respondent if the Board determines that the allegation, if true, amounts to a violation of A.R.S. Title 32, Chapter 39 or this Chapter and provide the respondent with 20 days to submit. Conduct an investigation of the complaint allegations and prepare a report summarizing the complaint and results of the investigation. The Board shall provide a copy of the report to the respondent.~~
    - a. ~~A response in which the individual admits, denies, or further explains each allegation in the complaint; and~~
    - b. ~~Records relevant to the complaint.~~
- ~~C.~~ ~~B.~~ If a respondent responds to a complaint, the Board shall send a copy of the response to the complainant and provide five days for the complainant to submit a rebuttal. The Board may ask the respondent to participate in an informal interview regarding the complaint.



If the respondent accepts the invitation to an informal interview, the Board shall notify both the complainant and respondent regarding the time and location of the informal interview.

- ~~D.C.~~ When the times provided under subsections (B)(2) and (C) expire, the Board shall conduct an investigation and prepare a report that summarizes the complaint and results of the investigation. The Board shall: After completing the informal interview, the Board shall:
1. Provide a copy of the investigative report to the complainant and respondent; and Dismiss the complaint if the Board finds the complaint lacks merit;
  2. Provide written notice to the complainant and respondent of the date, time, and location of the Board meeting at which the complaint will be considered. Take one of the actions listed in A.R.S. § 32-3951(E) if the Board finds the complaint has merit but is not of sufficient seriousness to warrant license suspension or revocation: or
  3. Refer the complaint for formal hearing under R4-8-603 if the Board finds the complaint is of sufficient seriousness that license suspension or revocation may be warranted.
- ~~E.D.~~ Both the complainant and respondent may be represented by an attorney at the Board meeting at which the complaint is considered. If the respondent refuses or fails to respond to the invitation to an informal interview or if the respondent accepts the invitation but fails to attend the informal interview, the Board shall refer the complaint for formal hearing under R4-8-603.
- ~~F.~~ At the Board meeting at which a complaint is considered, the Board shall:
1. ~~Provide the complainant and respondent with an opportunity to address the Board, present evidence, and cross-examine witnesses; and~~
  2. ~~Negotiate an equitable and just resolution of the matters asserted in the complaint; or~~
  3. ~~Forward the complaint to a formal hearing.~~

## ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

### R4-8-701. ~~Expired~~Regulatory Bill of Rights

The Board makes available to all persons the regulatory rights listed in A.R.S. § 41-1001.01.

### R4-8-702. ~~Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact~~Repealed

- ~~A.~~ A person may petition the Board under A.R.S. § 41-1033 for a:
1. Rulemaking action relating to a Board rule, including making a new rule or amending or repealing an existing rule; or
  2. Review of an existing Board practice or substantive policy statement alleged to constitute a rule.
- ~~B.~~ A person may petition the Board under A.R.S. § 41-1056.01 objecting to all or part of a Board rule because the actual economic, small business, or consumer impact of the rule:
1. Exceeds the estimated economic, small business, or consumer impact of the rule; or
  2. Was not estimated and imposes a significant burden on persons subject to the rule.
- ~~C.~~ To act under A.R.S. § 41-1033 or 41-1056.01 and this Section, a person shall submit to the Board a written petition including the following information:
1. The name, home or business and e-mail addresses, and telephone and fax numbers of the petitioner;
  2. Name of any person represented by the petitioner;
  3. If requesting a rulemaking action:
    - a. Statement of the rulemaking action sought, including the A.A.C. citation to all existing rules, and the specific language of a new rule or rule amendment; and
    - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
  4. If requesting a review of an existing Board practice or substantive policy statement:
    - a. Subject matter of the existing practice or substantive policy statement; and
    - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
  5. If objecting to a rule because of its economic, small business, and consumer impact statement:
    - a. The A.A.C. citation of the rule to which objection is made; and
    - b. A description of how the actual economic, small business, or consumer impact of the rule differs from that estimated; or
    - c. A description of the actual economic, small business, or consumer impact of the rule and an assessment of the burden on persons subject to the rule; and
  6. Dated signature of the petitioner.
- ~~D.~~ A person may submit supporting information with a petition.

### R4-8-704. ~~Oral Proceedings~~Repealed

- ~~A.~~ A person requesting an oral proceeding, as prescribed in A.R.S. § 41-1023(C), shall:
1. File the request with the Board;
  2. Include the name and current address of the person making the request; and
  3. Refer to the proposed rule and include, if known, the date and issue of the Arizona Administrative Register in which the notice of the proposed rule is published.
- ~~B.~~ The Board shall make a record of an oral proceeding. The Board shall make any material submitted during an oral proceeding part of the official rulemaking record.
- ~~C.~~ The presiding officer shall use the following guidelines to conduct an oral proceeding:
1. Registration of attendees. Registration of attendees is voluntary;
  2. Registration of persons intending to speak. A person wishing to speak shall provide the following information on a form that is available from the Board:
    - a. Name;
    - b. Representative capacity, if applicable;



- e. Whether the person supports or opposes the proposed rule, and
- d. Approximate length of time the person wishes to speak;
- 3. Opening of the record. The presiding officer shall open the proceeding by identifying the rule to be considered and the location, date, time, and purpose of the proceeding, and by presenting the agenda;
- 4. A statement by Board representative. A Board representative shall explain the background and general content of the proposed rule;
- 5. A public oral comment period. Any person may speak at an oral proceeding. A person who speaks shall address the proposed rule. A person who speaks may ask questions regarding the proposed rule and present oral argument, data, and views on the proposed rule. The presiding officer may limit the time allotted to each speaker and preclude undue repetition; and
- 6. Closing remarks. The presiding officer shall announce the location and last day for submitting written comments about the proposed rule.

**R4-8-706. ~~Written Criticism of Rule~~ Repealed**

- ~~A.~~ A person may file a written criticism of an existing rule with the Board.
- ~~B.~~ A person filing a written criticism of a rule shall identify the rule by its A.A.C. citation and specify why the rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.
- ~~C.~~ The Board shall acknowledge receipt of any criticism within 15 days and place the criticism in the official record for review by the Board under A.R.S. § 41-1056.



**NOTICES OF PROPOSED EXPEDITED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Expedited Rulemaking. The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the proposed expedited rule should be addressed to the agency proposing the rule. Refer to Item #5 to contact the person charged with the rulemaking.

**NOTICE OF PROPOSED EXPEDITED RULEMAKING  
TITLE 9. HEALTH SERVICES  
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES  
RADIATION CONTROL**

[R19-205]

**PREAMBLE**

1. **Article, Part, or Section Affected (as applicable)**      **Rulemaking Action**  
 R9-7-705      Amend  
 R9-7-707      Amend  
 R9-7-710      Amend  
 R9-7-711      Amend  
 R9-7-719      Amend  
 R9-7-720      Amend  
 R9-7-721      Amend  
 R9-7-722      Amend  
 R9-7-723      Amend  
 R9-7-724      Amend  
 R9-7-727      Amend  
 R9-7-728      Amend  
 R9-7-731      Amend  
 R9-7-744      Amend
  
2. **Citations to the agency’s statutory authority for the rulemaking to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statutes: A.R.S. §§ 30-654(B)(5) and 36-136(G)  
 Implementing statutes: A.R.S. §§ 30-654, 30-656, 30-657, 30-671 through 30-672.01, 30-681 through 30-689, and 30-721
  
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 expedited rulemaking:**  
 Notice of Rulemaking Docket Opening: 25 A.A.R. 2442, September 20, 2019
  
4. **The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Colby Bower, Assistant Director  
 Address: Department of Health Services  
 Public Health Licensing Services  
 150 N. 18th Ave., Suite 510  
 Phoenix, AZ 85007  
  
 Telephone: (602) 542-6383  
 Fax: (602) 364-4808  
 E-mail: Colby.Bower@azdhs.gov  
 or  
 Name: Robert Lane, Chief  
 Address: Department of Health Services  
 Office of Administrative Counsel and Rules  
 150 N. 18th Ave., Suite 200  
 Phoenix, AZ 85007  
  
 Telephone: (602) 542-1020  
 Fax: (602) 364-1150  
 E-mail: Robert.Lane@azdhs.gov
  
5. **An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:**  
 Arizona Revised Statutes (A.R.S.) § 30-654(B)(5) requires the Arizona Department of Health Services (Department) to make rules deemed necessary to administer A.R.S. Title 30, Chapter 4, Control of Ionizing Radiation. The Department has adopted these rules in A.A.C. Title 9, Chapter 7. Arizona is an Agreement State by the Document negotiated between the U.S. Atomic Energy Com-



mission (now U.S. Nuclear Regulatory Commission) and the Governor of Arizona in March 1967 under A.R.S. § 30-656. In order to remain in compliance with the Agreement, Arizona must adopt regulations related to the control of radioactive material in a manner that is consistent with federal regulations. The U.S. Nuclear Regulatory Commission periodically issues changes, denoted as Regulation Toolbox: Review Summary Sheets for Regulation Amendments (RATS IDs), that are required to be incorporated by Agreement States. Several RATS IDs have not yet been incorporated into Arizona’s rules related to the medical uses of radioactive material. The Department is revising the rules in A.A.C. Title 9, Chapter 7, Article 7, by expedited rulemaking to make changes to conform to the RATS IDs under 10 CFR Chapter I. The Department also plans to make other changes to reduce the administrative burden of the rules by clarifying existing language in the rules, correcting cross-references, and making the rules easier to understand. The Department believes that these changes are consistent with the purpose for A.R.S. § 41-1027 in that this rulemaking does not increase the cost of regulatory compliance, does not increase a fee, or reduce a procedural right of regulated persons, and either adopts or incorporates by reference, without material change, federal statutes and regulations, or clarifies language of a rule without changing its effect.

**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 Department did not review or rely on any study for 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:**

Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.

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

Not applicable

**10. Where, when, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(C):**

Close of record: Friday, October 18, 2019, 4:00 p.m.

A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

**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:**

According to A.R.S. Title 30, Chapter 2, Article 2, as amended by Laws 2017, Ch. 313, the Department is authorized to issue licenses and registrations for sources of ionizing radiation and those persons using these sources. This licensing and registration must be compatible with requirements in the Agreement. The rules refer to permits both general and specific. The general permit applies to certain levels of radioactive material, and specific permits are issued by rule for quantities and uses that are specific to the user and their training or scope of practice.

**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 rules are not more stringent than federal law. Applicable federal law includes:  
10 CFR 30.34(g), 10 CFR 32.72, 10 CFR 35.2, 10 CFR 35.12, 10 CFR 35.13, 10 CFR 35.14, 10 CFR 35.15, 10 CFR 35.24, 10 CFR 35.40, 10 CFR 35.41, 10 CFR 35.50, 10 CFR 35.51, 10 CFR 35.55, 10 CFR 35.57, 10 CFR 35.190, 10 CFR 35.204, 10 CFR 35.290, 10 CFR 35.300, 10 CFR 35.390, 10 CFR 35.392, 10 CFR 35.394, 10 CFR 35.396, 10 CFR 35.400, 10 CFR 35.433, 10 CFR 35.490, 10 CFR 35.491, 10 CFR 35.500, 10 CFR 35.590, 10 CFR 35.600, 10 CFR 35.610, 10 CFR 35.655, 10 CFR 35.690, 10 CFR 35.2024, 10 CFR 35.2310, 10 CFR 35.2655, 10 CFR 35.3045, 10 CFR 35.3204, 10 CFR 37.7(a), 10 CFR 37.77, 10 CFR 37.81(g), 10 CFR 40.23, 10 CFR 40.64, 10 CFR 40.66, 10 CFR 40.67, 10 CFR 70.5, 10 CFR 70.20(b), 10 CFR 70.32, and 10 CFR 71.97.

**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 such 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:**

In the rules being revised as part of this rulemaking, there are three incorporations by reference in R9-7-723 that are not being changed. These are listed below:

- 10 CFR 35.392, January 1, 2013
- 10 CFR 35.394, January 1, 2013
- 10 CFR 35.396, January 1, 2013

There is also one incorporation by reference in R9-7-727, listed below, that is being removed as no longer unnecessary:

- 10 CFR 35.491, January 1, 2013

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



**TITLE 9. HEALTH SERVICES**  
**CHAPTER 7. DEPARTMENT OF HEALTH SERVICES**  
**RADIATION CONTROL**

**ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL**

Section

- R9-7-705. Authority and Responsibilities for the Radiation Protection Program
- R9-7-707. Written Directives
- R9-7-710. Radiation Safety Officer and Associate Radiation Safety Officer Training
- R9-7-711. Authorized Medical Physicist Training
- R9-7-719. Training for Uptake, Dilution, and Excretion Studies
- R9-7-720. Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations
- R9-7-721. Training for Imaging and Localization Studies Not Requiring a Written Directive
- R9-7-722. Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive
- R9-7-723. Training for Use of Unsealed Radioactive Material Requiring a Written Directive, Including Treatment of Hyperthyroidism, and Treatment of Thyroid Carcinoma
- R9-7-724. Surveys after Brachytherapy Source Implant and Removal; Accountability
- R9-7-727. Training for Use of Manual Brachytherapy Sources and Training for the Use of Strontium-90 Sources for Treatment of Ophthalmic Disease
- R9-7-728. Training for Use of Sealed Sources for Diagnosis
- R9-7-731. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units
- R9-7-744. Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

**ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL**

**R9-7-705. Authority and Responsibilities for the Radiation Protection Program**

- A. A licensee's management shall appoint in writing a ~~radiation safety officer~~ Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the ~~RSO~~ Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more Associate Radiation Safety Officers to support the Radiation Safety Officer. The Radiation Safety Officer, with written agreement of the licensee's management, must assign the specific duties and tasks to each Associate Radiation Safety Officer. These duties and tasks are restricted to the types of use for which the Associate Radiation Safety Officer is listed on a license. The Radiation Safety Officer may delegate duties and tasks to the Associate Radiation Safety Officer but shall not delegate the authority or responsibilities for implementing the radiation protection program. Each time the ~~RSO~~ Radiation Safety Officer is changed, the licensee shall provide to the Department within 30 days an amendment request and a copy of the correspondence between the licensee's management and the candidate, accepting the position of ~~RSO~~ Radiation Safety Officer.
- B. Licensees that are authorized for two or more different types of uses of radioactive material listed in Groups 300, 400, 600, and 1,000, or two or more types of units under group 600 or 1,000, shall establish a Radiation Safety Committee (RSC) to oversee all uses of radioactive material permitted by the license. At a minimum, the RSC shall include an authorized user of each type of use permitted by the license, the ~~RSO~~ Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a ~~RSO~~ Radiation Safety Officer.
- C. If a licensee or applicant is not a health care institution and is unable to meet the RSC membership requirements in subsection (B), the licensee or applicant may request an exemption in accordance with A.R.S. § 30-654(B)(13). The request for exemption shall be made to the Department in writing and list the reasons why the health care institution is unable to meet the requirements.
- D. A licensee shall ensure that the RSC meets, at a minimum, on an annual basis and maintain the RSC meeting minutes for Department review for three years after the date of the RSC meeting.
- E. A licensee shall notify the Department no later than 30 days after:
  1. An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer, an Associate Radiation Safety Officer, an authorized medical physicist, or ophthalmic physicist permanently discontinues performance of duties under the license or has a name change;
  2. The licensee permits an individual qualified to be a Radiation Safety Officer under R9-7-710 to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer;
  3. The licensee's mailing address changes;
  4. The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in R9-7-313(B);
  5. The licensee has added to or changed the areas of use identified in the application or on the license where byproduct material is used in accordance with R9-7-301, if the change does not include addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area; or
  6. The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in R9-7-701. The notification must include the manufacturer and model number of the sealed source, the isotope, and the quantity per sealed source.

**R9-7-707. Written Directives**

- A. A licensee shall ensure that a written directive is dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 MBq (30 microcuries (μCi)), any therapeutic dosage of unsealed radioactive material or any therapeutic dose



of radiation from radioactive material. If, because of the emergent nature of the patient’s condition, a delay in order to provide a written directive would jeopardize the patient’s health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient’s record. A written directive shall be prepared within 48 hours of the oral directive.

- B. A written directive shall contain the patient or human research subject’s name and the following information:
  1. For any administration of quantities greater than 1.11 MBq (30 µCi) of sodium iodide I-131: the dosage;
  2. For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: the radiopharmaceutical, dosage, and route of administration;
  3. For gamma stereotactic radiosurgery: the total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;
  4. For teletherapy: the total dose, dose per fraction, number of fractions, and treatment site;
  5. For high dose-rate remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose; ~~or~~
  6. For permanent implant brachytherapy:
    - a. Before implantation: the treatment site, radionuclide, and total strength; and
    - b. After implantation but before the patient leaves the post-treatment recovery area: the treatment site, number of sources implanted, total source strength implanted, and date; or
  - 6.7. For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:
    - a. Before implantation: the treatment site, ~~the~~ radionuclide, and dose; and
    - b. After implantation but before completion of the procedure: the radionuclide, treatment site, number of sources, ~~and~~ total source strength and exposure time (or the total dose), and date.
- C. The licensee shall retain a copy of the written directive for three years after creation of the record.

**R9-7-710. Radiation Safety Officer and Associate Radiation Safety Officer Training**

- A. A licensee shall require an individual fulfilling the responsibilities of the ~~radiation safety officer~~ Radiation Safety Officer, described in R9-7-705, to be an individual who:
  1. Is certified by a specialty board whose certification process includes all of the requirements in subsection ~~(A)(2) (A)(2)(a) and (B)~~ and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
    - a. Meet the following minimum requirements:
      - i. Hold a bachelor’s or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;
      - ii. Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and
      - iii. Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or
    - b. Meet the following minimum requirements:
      - i. Hold a master’s or doctor’s degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
      - ii. Have two years of full-time practical training and/or supervised experience in medical physics;
        - (1) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the ~~Commission or an~~ the Department, the NRC, or another Agreement State; or
        - (2) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users qualified under subsection (B), R9-7-721, or R9-7-723; and
      - iii. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; ~~or~~
  2. Has:
    - a. ~~completed~~ Completed a structured educational program consisting of both:
      - ~~i.~~ i. 200 hours of didactic and laboratory training in the following areas:
        - ~~i.~~ i. (1) Radiation physics and instrumentation;
        - ~~ii.~~ ii. (2) Radiation protection;
        - ~~iii.~~ iii. (3) Mathematics pertaining to the use and measurement of radioactivity;
        - ~~iv.~~ iv. (4) Radiation biology; and
        - ~~v.~~ v. (5) Radiation dosimetry; and
      - ~~b.~~ b. ii. One year of full-time radiation safety experience under the supervision of the individual identified as the ~~radiation safety officer~~ Radiation Safety Officer on a Department, a NRC, or an Agreement State license or permit issued by a NRC master material licensee that authorizes similar type(s) of use(s) of radioactive material involving the following:
        - ~~i.~~ i. (1) Shipping, receiving, and performing related radiation surveys;
        - ~~ii.~~ ii. (2) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
        - ~~iii.~~ iii. (3) Securing and controlling radioactive material;
        - ~~iv.~~ iv. (4) Using administrative controls to avoid mistakes in the administration of radioactive material;
        - ~~v.~~ v. (5) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
        - ~~vi.~~ vi. (6) Using emergency procedures to control radioactive material; and



- ~~vii.~~ (7) Disposing of radioactive material; ~~or~~ and
- ~~e.b.~~ Has obtained ~~Obtained~~ written certification, signed by a preceptor ~~radiation safety officer~~ Radiation Safety Officer or Associate Radiation Safety Officer, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) ~~and (A)(2)(b)~~ and has achieved a level of radiation safety knowledge sufficient to function independently as a ~~radiation safety officer~~ Radiation Safety Officer or as an Associate Radiation Safety Officer for a medical use licensee; ~~or~~
3. Is:
- A medical physicist who has been certified by a specialty board whose certification process has been recognized by the Department, the NRC, or another Agreement State under R9-7-711(A) or equivalent, has experience with radiation safety aspects of similar types of use of radioactive material for which the licensee seeks the approval of the individual as Radiation Safety Officer or an Associate Radiation Safety Officer, and meets the requirements in subsection (B); or
  - ~~an~~ An authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has ~~radiation safety officer~~ Radiation Safety Officer responsibilities; ~~or~~
4. Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as the Radiation Safety Officer and the authorized user on the same new medical license and meets the requirements in subsection (B).
- B.** A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer to have training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which the licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, an Associate Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.
- ~~B.C.~~** Exceptions.
- An individual identified as a ~~radiation safety officer~~ Radiation Safety Officer or as an Associate Radiation Safety Officer on a Department, a NRC, or ~~an~~ another Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope ~~before the effective date of these rules~~ May 5, 2007 need not comply with the training requirements in subsections (A)(1) through ~~(A)(3)~~ (4).
  - A physician, dentist, or podiatrist identified as an authorized user for the medical use of radioactive material on a license issued by the Department, the NRC, or an Agreement State, a permit issued by a NRC master material licensee, a permit issued by the Department, the NRC, or an Agreement State broad scope licensee, or a permit issued by a NRC master material license broad scope permittee ~~before the effective date of these rules~~ May 5, 2007 need not comply with the training requirements in this Article.
- ~~C.D.~~** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- ~~D.E.~~** Individuals who, under subsection ~~(B)~~ (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.
- E.** Records Retention.
- The licensee shall retain both a copy of the authority, duties, and responsibilities of the Radiation Safety Officer, as required by this Section, and a signed copy of each Radiation Safety Officer's agreement to be responsible for implementing the radiation safety program for the duration of the license. The records must include the signature of the Radiation Safety Officer and licensee management.
  - For each Associate Radiation Safety Officer appointed under this Section, the licensee shall retain, for five years after the Associate Radiation Safety Officer is removed from the license, a copy of the written document appointing the Associate Radiation Safety Officer, signed by the licensee's management.
- R9-7-711. Authorized Medical Physicist Training**
- A.** A licensee shall require an authorized medical physicist to be an individual who:
- Is certified by a specialty board whose certification process includes all of the training and experience requirements in ~~subsection (A)(3)(b) and (A)(3)(e)~~ subsections (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State; ~~or~~ To have its certification process recognized, a specialty board shall require all candidates for certification to:
  - Training requirements.
    - Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
    - Have two years of full-time practical training and/or supervised experience in medical physics:
      - Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the NRC or an Agreement State; or
      - In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in R9-7-710, R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; and
    - Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or
  - Training requirements alternative. Meets the following alternative training requirements:
    - Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an



additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services and must include:

- i. Performing sealed source leak tests and inventories;
  - ii. Performing decay corrections;
  - iii. Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
  - iv. Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
- b. Has obtained written attestation that the individual has satisfactorily completed the requirements in both subsections ~~(A)(2) and (A)(3)(c)~~, or in both subsections ~~(A)(3)(a) and (A)(3)(c)~~ (A)(2)(a) and (B); and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in section this Section, or equivalent Agreement State or NRC requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; ~~and~~

~~e-B.~~ Has A licensee shall require an authorized medical physicist to be an individual who has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

~~B-C.~~ Exceptions. An individual identified as a teletherapy or medical physicist on a Department, a NRC, or ~~an another~~ Agreement State license or a permit issued by the NRC or ~~an another~~ Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before ~~the effective date of these rules~~ May 5, 2007 need not comply with the training requirements in subsection (A).

~~C-D.~~ The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

~~D-E.~~ Individuals who, under subsection ~~(B)~~ (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

**R9-7-719. Training for Uptake, Dilution, and Excretion Studies**

A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 100 in Exhibit A of this Article to be a physician who:

- 1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through https://www.nrc.gov, and who meets the requirements in subsection (A)(3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
  - a. Complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies as described in subsection (A)(3); and
  - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control; ~~or~~
- 2. Is an authorized user under R9-7-721, R9-7-723, the NRC, or equivalent Agreement State requirements; or
- 3. Has:
  - a. ~~completed~~ Completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies. The training and experience must include:
    - ~~a-i.~~ Classroom and laboratory training in the following areas:
      - ~~i-(1)~~ i-(1) Radiation physics and instrumentation;
      - ~~ii-(2)~~ ii-(2) Radiation protection;
      - ~~iii-(3)~~ iii-(3) Mathematics pertaining to the use and measurement of radioactivity;
      - ~~iv-(4)~~ iv-(4) Chemistry of radioactive material for medical use; and
      - ~~v-(5)~~ v-(5) Radiation biology; and
    - ~~b-ii.~~ ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
      - ~~i-(1)~~ i-(1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
      - ~~ii-(2)~~ ii-(2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
      - ~~iii-(3)~~ iii-(3) Calculating, measuring, and safely preparing patient or human research subject dosages;
      - ~~iv-(4)~~ iv-(4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
      - ~~v-(5)~~ v-(5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and
      - ~~vi-(6)~~ vi-(6) Administering dosages of radioactive drugs to patients or human research subjects; and
  - b. ~~Has obtained~~ Obtained written attestation, signed by a preceptor authorized user who meets the requirements of R9-7-719, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements; that the individual has satisfactorily completed the requirements in subsection (A)(1) or ~~(A)(3)~~ subsection (A)(3)(a) and has achieved a level of competency suffi-



cient to function independently as an authorized user for the medical uses authorized under Exhibit A of this Article. The attestation must be obtained from either:

- i. A preceptor authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements; or
  - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(3)(a).
- B. The training and experience in subsections (A)(1)(a) or (3)(a) shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- C. Individuals who, under R9-7-710(B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

#### **R9-7-720. Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations**

- A. A licensee may not administer to humans a radiopharmaceutical that contains more than 0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m) or, more than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).
- B. A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with subsection (A).
- C. A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of radionuclides strontium-82 and strontium-85 to demonstrate compliance with subsection (A).
- D. A licensee shall maintain a record of each molybdenum-99 concentration measurement or strontium-82 and strontium-85 concentrations measurements for three years following completion of the measurement.
- E. A licensee shall notify by telephone the NRC Operations Center and the distributor of the generator within seven calendar days after discovery that an eluate exceeded the permissible concentration listed in subsection (A) at the time of generator elution. The telephone report to the NRC must include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects; when the distributor was notified; and the action taken.

#### **R9-7-721. Training for Imaging and Localization Studies Not Requiring a Written Directive**

Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 200 in Exhibit A of this Article to be a physician who:

1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
  - a. Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for imaging and localization studies as described in subsection (3); and
  - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control; ~~or~~
2. Is an authorized user under R9-7-723, the NRC, or equivalent Agreement State requirements; or
3. Has:
  - ~~a.~~ Completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for imaging and localization studies. The training and experience must include:
    - ~~i.~~ (1) Classroom and laboratory training in the following areas:
      - ~~i.~~ (1) Radiation physics and instrumentation;
      - ~~ii.~~ (2) Radiation protection;
      - ~~iii.~~ (3) Mathematics pertaining to the use and measurement of radioactivity;
      - ~~iv.~~ (4) Chemistry of radioactive material for medical use; and
      - ~~v.~~ (5) Radiation biology; and
    - ~~b.~~ ii. Work experience, under the supervision of an authorized user who meets the requirements in this Section, R9-7-710, R9-7-721, or R9-7-723 and in subsection (3)(b)(vii); the requirements of the NRC; or equivalent Agreement State requirements, involving: An authorized nuclear pharmacist who meets the requirements in R9-7-712 may provide the supervised work experience for subsection (3)(a)(ii)(7). Work experience must involve:
      - ~~i.~~ (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
      - ~~ii.~~ (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
      - ~~iii.~~ (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
      - ~~iv.~~ (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;



- ~~v.~~(5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; ~~and~~
  - ~~vi.~~(6) Administering dosages of radioactive drugs to patients or human research subjects; and
  - ~~vii.~~(7) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the elate for radionuclide purity, and processing the elate with reagent kits to prepare labeled radioactive drugs; and
- e-b. ~~Has obtained~~ Obtained written attestation, ~~signed by a preceptor authorized user who meets the requirements as an authorized user for Exhibit A group 200 nuclides, NRC, or equivalent Agreement State requirements;~~ that the individual has satisfactorily completed the requirements in subsection (4) or (3) (3)(a) and ~~has achieved a level of competency sufficient to function independently~~ is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Exhibit A of this Article Group 200 in Exhibit A of this Article. The attestation must be obtained from either:
- i. A preceptor authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements; or
  - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (3)(a).

**R9-7-722. Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive**

- A. A licensee shall provide radiation safety instruction, initially and at least annually, for all personnel caring for the patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R9-7-717. To satisfy this requirement, the instruction shall describe the licensee’s procedures for:
1. Patient or human research subject control~~s~~;
  2. Visitor control~~s~~;
  3. Contamination control~~s~~; and
  4. Waste control~~s~~; and.
- B. For each patient or human research subject who cannot be released under R9-7-717, a licensee shall:
1. Quarter the patient or the human research subject in a private room with a private sanitary facility;
  2. Visibly post the patient’s or the human research subject’s room with a “Radioactive Materials” sign;
  3. Note on the door or in the patient’s or human research subject’s chart where and how long visitors may stay in the patient’s or the human research subject’s room; and
  4. Monitor material and items removed from the patient’s or the human research subject’s room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle the material and items as radioactive waste.
- C. A licensee shall notify the ~~radiation safety officer~~ Radiation Safety Officer, or his or her designee, and the authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- ~~D.~~ A licensee may use any unsealed byproduct material identified in R9-7-723(A)(2)(b)(vi) prepared for medical use and for which a written directive is required that is:
1. Obtained from:
    - a. A manufacturer or preparer licensed under R9-7-311 or equivalent Agreement State requirements, or
    - b. A PET radioactive drug producer licensed under R9-7-311 or equivalent Agreement State requirements;
  2. Excluding production of PET radionuclides, prepared by:
    - a. An authorized nuclear pharmacist;
    - b. A physician who is an authorized user and who meets the requirements specified R-7-723; or
    - c. An individual under the supervision, as specified in R9-7-712, of the authorized nuclear pharmacist in subsection (D)(2)(a) or the physician who is an authorized user in subsection (D)(2)(b);
  3. Obtained from and prepared by an NRC or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or
  4. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.
- ~~D-E.~~ A licensee shall retain records of instruction and safety procedures performed under this rule for three years from the date of the activity.

**R9-7-723. Training for Use of Unsealed Radioactive Material Requiring a Written Directive, Including Treatment of Hyperthyroidism, and Treatment of Thyroid Carcinoma**

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 300 in Exhibit A of this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(2). To have its certification process recognized, a specialty board shall require all candidates for certification to:
    - a. Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in (A)(2) subsection (A)(2)(a). Eligible training programs must be approved by the Residency Review Commit-



- tee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association; and
- b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, and quality assurance, and clinical use of unsealed radioactive material for which a written directive is required; or
2. Has:
    - a. ~~completed~~ Completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:
      - ~~a-i.~~ Classroom and laboratory training in the following areas:
        - ~~i-(1)~~ Radiation physics and instrumentation;
        - ~~ii-(2)~~ Radiation protection;
        - ~~iii-(3)~~ Mathematics pertaining to the use and measurement of radioactivity;
        - ~~iv-(4)~~ Chemistry of radioactive material for medical use; and
        - ~~v-(5)~~ Radiation biology; and
      - ~~b-ii.~~ Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
        - ~~i-(1)~~ Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
        - ~~ii-(2)~~ Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
        - ~~iii-(3)~~ Calculating, measuring, and safely preparing patient or human research subject dosages;
        - ~~iv-(4)~~ Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
        - ~~v-(5)~~ Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
        - ~~vi-(6)~~ Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:
          - (1)(a) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131, for which a written directive is required (Experience with at least three cases in the Category specified in subsection (A)(2)(b)(vi)(2) (A)(2)(a)(ii)(6)(b) also satisfies this requirement);
          - (2)(b) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131;
          - (3)(c) Parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV, for which a written directive is required; and/or
          - (4)(d) Parenteral administration of any other radionuclide, for which a written directive is required; and
    - ~~e-b.~~ Obtained written attestation, ~~signed by a preceptor authorized user who meets the requirements as an authorized user for Exhibit A group 300 nuclides, NRC, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in subsection (A)(1) or (A)(2) (A)(2)(a) and has achieved a level of competency sufficient to function independently is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 300 in Exhibit A of this Article for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in this Section, NRC, or equivalent Agreement State requirements. The preceptor authorized user, who meets the requirements in subsection (B) must have experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, obtained from either:~~
      - i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or
      - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a).
- B. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.392, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
  - C. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.394, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
  - D. Except as provided in R9-7-710, a licensee shall require an authorized user for the parenteral administration of unsealed radioactive material requiring a written directive to be a physician who has completed the training requirements in 10 CFR 35.396, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.



- E. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

**R9-7-724. Surveys after Brachytherapy Source Implant and Removal; Accountability**

- A. A licensee shall make a survey to locate and account for all sources that have not been implanted immediately after implanting sources in a patient or a human research subject.
- B. A licensee shall make a survey of the patient or the human research subject with a radiation detection survey instrument immediately after removing the last temporary implant source to confirm that all sources have been removed.
- C. A licensee shall maintain accountability at all times for all sources in storage or use.
- D. A licensee shall return brachytherapy sources to a secure storage area as soon as possible after removing sources from a patient or a human research subject.
- E. A licensee shall record the procedures performed in subsections (A) through (D) and retain the records for three years following completion of the record.
- E. A licensee must use only brachytherapy sources:
1. Approved in the Sealed Source and Device Registry for manual brachytherapy medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry; or
  2. In research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and Drug Administration, provided the requirements of R9-7-450(A) are met.

**R9-7-727. Training for Use of Manual Brachytherapy Sources and Training for the Use of Strontium-90 Sources for Treatment of Ophthalmic Disease**

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under this Article to be a physician who:
- Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in subsection (A)(2). The names of board certifications that have been recognized by the NRC or an Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates for certification to:
    - Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and
    - Pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or
  - Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:
    - 200 hours of classroom and laboratory training in the following areas:
      - Radiation physics and instrumentation;
      - Radiation protection;
      - Mathematics pertaining to the use and measurement of radioactivity;
      - Radiation biology; ~~and~~
    - 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent NRC or Agreement State requirements at a medical institution, involving:
      - Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
      - Checking survey meters for proper operation;
      - Preparing, implanting, and removing brachytherapy sources;
      - Maintaining running inventories of material on hand;
      - Using administrative controls to prevent a medical event involving the use of radioactive material;
      - Using emergency procedures to control radioactive material; ~~and~~
  - ~~Has completed~~ Completing three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in this Section, or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
  - ~~Has obtained~~ Obtaining written attestation, ~~signed by a preceptor authorized user who meets the requirements in this Section, NRC, or equivalent Agreement State requirements,~~ that the individual has satisfactorily completed the requirements in subsection (A)(1) or (A)(2) subsections (A)(2)(a) through (c) and ~~has achieved a level of competency sufficient to function independently~~ is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized under Exhibit A of this Article. The attestation must be obtained from either:
    - A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements; or
    - A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council



on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) and (b).

- B.** Except as provided in R9-7-710, a licensee shall require an authorized user of strontium-90 for ophthalmic radiotherapy to be a physician who has completed the training requirements in 10 CFR 35.491, January 1, 2013, incorporated by reference, and available under R9-7-101. ~~This incorporated material contains no future editions or amendments.~~
- B.** A licensee who uses strontium-90 for ophthalmic treatments must ensure that certain activities as specified in subsection (C) are performed by either:
1. An authorized medical physicist; or
  2. An individual who:
    - a. Is identified as an ophthalmic physicist on a:
      - i. Specific medical use license issued by the Department, the NRC, or another Agreement State,
      - ii. Permit issued by an NRC or other Agreement State broad scope medical use licensee,
      - iii. Medical use permit issued by an NRC master material licensee, or
      - iv. Permit issued by an NRC master material licensee broad scope medical use permittee;
    - b. Holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university;
    - c. Has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and
    - d. Has documented training in:
      - i. The creation, modification, and completion of written directives;
      - ii. Procedures for administrations requiring a written directive; and
      - iii. Performing the calibration measurements of brachytherapy sources as detailed in R9-7-726.
- C.** The individuals who are identified in subsection (B)(1) or (2) shall:
1. Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under R9-7-726; and
  2. Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in paragraph (a) of this section will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the administrations were in accordance with the written directives.
- D.** Licensees shall retain a record of the activity of each strontium-90 source in accordance with R9-7-313.
- C-E.** The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

#### **R9-7-728. Training for Use of Sealed Sources for Diagnosis**

- A.** Except as provided in R9-7-710, the licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A of this Article to be a physician, dentist, or podiatrist who:
1. ~~is~~ is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in subsections ~~(A)(1) and (2)~~ (A)(3) and (B) and whose certification has been recognized by the Department, the NRC, or another Agreement State as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>; ~~or~~
  2. Is an authorized user for uses listed in Group 200 of Exhibit A of this Article or equivalent NRC or Agreement State requirements; or
  3. Has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:
    - a. Radiation physics and instrumentation;
    - b. Radiation protection;
    - c. Mathematics pertaining to the use and measurement of radioactivity;
    - d. Radiation biology; ~~and~~
- ~~2-B.~~ Has A licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A of this Article to have completed training in the use of the device for the uses requested.
- B-C.** The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

#### **R9-7-731. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**

- A.** A licensee shall:
1. Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;
  2. Permit only individuals approved by the authorized user, ~~radiation safety officer~~ Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with a source;
  3. Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and
  4. Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place a source in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:
    - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;
    - b. The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and



- c. The names and telephone numbers of the authorized users, the authorized medical physicist, and the ~~radiation safety officer~~ Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- B. A licensee shall post instructions at the unit console to inform the operator of:
  - 1. The location of the procedures required by subsection (A)(4); and
  - 2. The names and telephone numbers of the authorized users, the authorized medical physicist, and the ~~radiation safety officer~~ Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- C. A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:
  - 1. The procedures identified in subsection (A)(4); and
  - 2. The operating procedures for the unit.
- D. A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.
- E. A licensee shall retain a record of individuals receiving instruction required by subsection (C) for three years from the date of the instruction.
- F. A licensee shall maintain a copy of the procedures required by subsections (A)(4) and (C)(2) for Department review. The copy shall be maintained for three years beyond the termination date of the activities for which the procedures were written.
- G. Prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit, a licensee shall ensure that vendor operational and safety training is provided to all individuals who will operate the unit. The vendor operational and safety training must be provided by the device manufacturer or by an individual certified by the device manufacturer to provide the operational and safety training.
- H. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during each source replacement to assure proper functioning of the source exposure mechanism and other safety components. The interval between each full-inspection servicing shall not exceed five years for each teletherapy unit and shall not exceed seven years for each gamma stereotactic radiosurgery unit.
- I. A licensee shall:
  - 1. Ensure that inspection and servicing are performed only by persons specifically licensed to do so by the Department, the NRC or another Agreement State, and
  - 2. Keep a record of the inspection and servicing for three years after termination.
- J. A licensee shall maintain a record of safety instruction required by R9-7-722, R9-7-725 and this Section and the operational and safety instructions for three years after the date of the instruction. The record must include a list of the topics covered, the date of the instruction, the name(s) of the attendee(s), and the name(s) of the individual(s) who provided the instruction.

**R9-7-744. Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units**

- A. Except as provided in R9-7-710, a licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A of this Article to be a physician who:
  - 1. Is certified by a medical specialty board whose certification process has been recognized by the Department, the NRC or another Agreement State and who meets the requirements in subsection (A)(2)(e). The names of board certifications that have been recognized by the Department, the NRC or another Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates to:
    - a. Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and
    - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or
  - 2. Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:
    - a. 200 hours of classroom and laboratory training in the following areas:
      - i. Radiation physics and instrumentation;
      - ii. Radiation protection;
      - iii. Mathematics pertaining to the use and measurement of radioactivity;
      - iv. Chemistry of radioactive material for medical use; and
      - v. Radiation biology; ~~and~~
    - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements at a medical institution, involving:
      - i. Reviewing full calibration measurements and periodic spot-checks;
      - ii. Preparing treatment plans and calculating treatment doses and times;
      - iii. Using administrative controls to prevent a medical event involving the use of radioactive material;
      - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;
      - v. Checking and using survey meters; and
      - vi. Selecting the proper dose and how it is to be administered; ~~and~~
    - c. ~~Has completed~~ Completing three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training



of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and

- d. ~~Has obtained~~ Obtaining written attestation that the individual has satisfactorily completed the requirements in ~~subsection (A)(1) or (A)(2) subsections (A)(2)(a) through (c) and (B), and has achieved a level of competency sufficient to function independently is able to independently fulfill the radiation safety-related duties~~ as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be ~~signed by a preceptor authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and obtained from either:~~
- i. A preceptor authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status; or
  - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements, for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) through (c).
- e. ~~B.~~ Has received A licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A of this Article to receive training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.
- ~~B.C.~~ The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.



NOTICES OF FINAL EXPEDITED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Expedited Rulemaking. The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the expedited rules should be addressed to the agency promulgating the rules. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXPEDITED RULEMAKING
TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE

[R19-206]

PREAMBLE

- 1. Article, Part or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rule:
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:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
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:
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:
9. A summary of the economic, small business, and consumer impact:



- 10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**  
No changes have been made between the proposed rulemaking and the final rulemaking.
- 11. **An agency’s summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:**  
No person submitted comments to the Department about the rulemaking.
- 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 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 does 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:**  
Under A.R.S. § 20-143(B), the Director shall make rules concerning proxies, consents or authorizations in respect of securities issued by domestic stock insurance companies having a class of equity securities held of record by one hundred or more persons to conform with the requirements of section 12(g)(2)(G)(ii) of the securities and exchange act of 1934, as amended, and as may be amended.  
  
The rule is not more stringent than the federal law.
  - 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. No 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.
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
R20-6-401(A) references the National Association of Insurance Commissioner’s (NAIC) Model Laws, Regulations and Guidelines, Volume III, pp. 490-1 through 490-40, Regulation Regarding Proxies, Consents and Authorizations of Domestic Stock Insurers, April 1995. This reference is not being changed. The addresses of the Department and NAIC where the reference material can be found are being updated.
- 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 final rulemaking packages:**  
This rule was not previously made, amended or repealed as an emergency rule.
- 15. **The full text of the rules follows:**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 4. TYPES OF INSURANCE COMPANIES**

Section

R20-6-401. Proxies, Consents, and Authorizations of Domestic Stock Insurers

**ARTICLE 4. TYPES OF INSURANCE COMPANIES**

**R20-6-401. Proxies, Consents, and Authorizations of Domestic Stock Insurers**

- A. The Department incorporates by reference National Association of Insurance Commissioners Model Laws, Regulations and Guidelines, Volume III, pp. 490-1 through 490-40, Regulation Regarding Proxies, Consents, and Authorization of Domestic Stock Insurers, April 1995 (and no future editions or amendments), which is on file with ~~the Office of the Secretary of State~~ and available from the Department of Insurance, ~~2910 N. 44th St., Phoenix, AZ 85018~~ 100 N. 15th Ave., Suite 102, Phoenix, AZ 85007-2624 and the National Association of Insurance Commissioners, Publications Department, ~~2301 McGee St., Suite 800, Kansas City, MO 64108, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197~~, modified as follows:  
Section 1 A is modified to read: “No domestic stock insurer that has any class of equity securities held of record by 100 or more persons, or any director, officer or employee of that insurer, or any other person, shall solicit, or permit the use of the person’s name to solicit, by mail or otherwise, any proxy, consent, or authorization in respect to any class of equity securities in contravention of this regulation and Schedules A and B, hereby made a part of this regulation.”
- B. Domestic stock insurance companies shall comply with this Section as required under A.R.S. § 20-143(B).

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## NOTICES OF EXEMPT RULEMAKING

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

It is not uncommon for an agency to be exempt from all steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act (APA) or Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10.

An agency's exemption is either written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters; or a court has

determined that an agency, board or commission is exempt from the rulemaking process.

The Office makes a distinction between certain exemptions as provided in these laws, on a case by case basis, as determined by an agency. Other rule exemption types are published elsewhere in the *Register*.

Notices of Exempt Rulemaking as published here were made with no special conditions or restrictions; no public input; no public hearing; and no filing of a Proposed Exempt Rulemaking.

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### NOTICE OF EXEMPT RULEMAKING TITLE 15. REVENUE CHAPTER 5. DEPARTMENT OF REVENUE TRANSACTION PRIVILEGE AND USE TAX SECTION

[R19-207]

#### PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R15-5-101	ReNUMBER
R15-5-101	Amend
R15-5-102	Amend
R15-5-107	ReNUMBER
R15-5-111	Amend
R15-5-112	Amend
R15-5-151	Amend
R15-5-155	New Section
Article 18	Amend
Article 20	Amend
R15-5-2001	ReNUMBER
R15-5-2002	Amend
R15-5-2003	New Section
R15-5-2004	Amend
R15-5-2009	New Section
R15-5-2201	Amend
R15-5-2202	Amend
R15-5-2204	Amend
R15-5-2205	Amend
R15-5-2206	Amend
R15-5-2207	Amend
R15-5-2212	New Section
R15-5-2213	Repeal
R15-5-2215	Amend
R15-5-2216	New Section
R15-5-2217	New Section
R15-5-2220	Repeal
R15-5-2301	Amend
R15-5-2302	Amend
R15-5-2310	Amend
R15-5-2350	Repeal

**2. Citations to the agency's statutory rulemaking authority, including the authorizing state (general), the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. §§ 42-1003(F), 42-1005(A)(1); Laws 2019, 1st Reg. Sess., Ch. 273, § 32.

Implementing statute: A.R.S. §§ 42-3004(1), 42-5009(C); Laws 2019, 1st Reg. Sess., Ch. 273, §§ 6, 32.

Statute or session law authorizing the exemption: Laws 2019, 1st Reg. Sess., Ch. 273, § 32.

**3. Effective date of the rules and the agency's reason it selected the effective date:**

October 1, 2019

The effective date of the rules is October 1, 2019, which the Department has selected because it falls after the August 27, 2019, general effective date applicable to the underlying legislation and coincides with the start of the first filing period for affected taxpayers on October 1, 2019.

**4. List of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

None

**5. Agency's contact person who can answer questions about the rulemaking:**

Name: Lisa Querard, Research and Policy Administrator  
Address: Department of Revenue  
1600 W. Monroe St., Mail Code 1300  
Phoenix, AZ 85007  
Telephone: (602) 716-6813  
Fax: (602) 716-7996  
E-mail: lquerard@azdor.gov  
Website: www.azdor.gov

**6. Agency's justification and reason why rules should be made, amended, repealed, or renumbered, including an explanation about the rulemaking:**

This rulemaking amends existing rules and introduces new rules to accommodate the needs of remote sellers and marketplace facilitators who, beginning October 1, 2019, are required to become licensed with the Department and report and remit Arizona transaction privilege taxes if they meet the dollar thresholds in retail sales to Arizona consumers that are established by Laws 2019, 1st Reg. Sess., Ch. 273 (hereafter referred to in its entirety as "HB 2757"). Additionally, it repeals or updates outmoded, redundant, or potentially confusing language that diminishes the utility of rules that are applicable to remote sellers, marketplace facilitators, and other taxpayers.

Before the enactment of HB 2757, liability for state and local privilege taxes (collectively referred to as "TPT" in this Notice) was based on a taxpayer's physical presence in Arizona, rather than the level of gross sales with Arizona consumers. Consequently, in addition to introducing new provisions addressing the criteria for transaction privilege tax liability, liability relief provisions for remote sellers and marketplace facilitators and filing methodology, the Department reviewed its existing rules on retail sales and reporting and filing requirements and amended or repealed language to accurately reflect its current position vis-à-vis all taxpayers, including remote sellers and marketplace facilitators.

The Department received approval to engage in this rulemaking action as an exception to Executive Order 2019-01, 25 A.A.R. 131 (Jan. 9, 2019) on September 16, 2019. Aside from stylistic, grammatical, or technical corrections intended to be nonsubstantive in nature, the following summary provides a rule-by-rule description of changes from the rules as they had existed before this rulemaking action:

- a. *R15-5-101 (Definitions)*. This rule contains definitions renumbered from R15-5-2001 and is further amended to include cross-references to statutory definitions and to clarify that the definition of the term "retailer" includes manufacturers and wholesalers.
- b. *R15-5-102 (Casual Activities or Sales)*. This rule is amended to clarify that marketplace facilitators and remote sellers cannot be considered as engaging in a casual activity or sale if they regularly make sales at retail of the same type offered. In particular, it specifies that a marketplace facilitator is deemed to be regularly in the business of selling any tangible personal property sold on its marketplace.
- c. *R15-5-107 (Sales for Resale or Lease)*. This rule is renumbered from R15-5-101 without further amendment.
- d. *R15-5-111 (Consignment Sales)*. This rule is amended to specify that marketplace facilitators with no physical presence in Arizona and that are consignors are required to obtain a TPT license if they meet the applicable threshold requirements.
- e. *R15-5-112 (Sales by Auctioneers)*. This rule is amended to specify that marketplace facilitators with no physical presence in Arizona and that are auctioneers are required to obtain a TPT license if they meet the applicable threshold requirements.
- f. *R15-5-151 (Artists and Sales of Artwork)*. This rule is amended to be consistent with statute by specifying that sales of fine art is exempt in accordance with the retail TPT statutes if the sale is to a nonresident of Arizona and is delivered and used outside Arizona.
- g. *R15-5-155 (Delivery Sales of Tobacco Products)*. This new rule explicitly states that a retailer—including a remote seller, marketplace seller, or marketplace facilitator—cannot make or facilitate a delivery sale of tobacco products in violation of A.R.S. § 36-798.06. Although clearly laid out in statute, the rule clarifies that HB 2757 did not expand the scope of lawful retail sales to include these sales.
- h. *R15-5-2001*. This rule is renumbered to R15-5-101.
- i. *R15-5-2002 (Liability for Transaction Privilege Tax)*. This rule is amended to provide the Department's positions regarding a person's nexus for TPT purposes based on economic nexus or physical presence within Arizona. Regarding physical presence nexus, the rule also provides examples of when a person has or has not established physical presence in Arizona. It furthermore explicitly states when physical presence will end following a retailer's termination of its physical presence in this state (*i.e.*, the last day of the month in which the retailer terminates its physical presence), which is sometimes referred to as "trailing nexus."



- j. *R15-5-2003 (Applicability of Provisions to Marketplace Facilitators and Remote Sellers)*. This new rule simply specifies that the administrative rules found in A.A.C. Title 15, Chapter 5, Articles 1, 20, and 22 are generally applicable to remote sellers and marketplace facilitators who meet the threshold requirements in A.R.S. § 42-5044.
- k. *R15-5-2004 (Multi-Location and Multi-Business Taxpayers)*. This rule is amended to specify the records required to be maintained by remote sellers and marketplace facilitators and to provide a limited safe harbor for marketplace facilitators who reported and remitted tax on sales made on their own behalf and on behalf of their marketplace sellers for periods on or before August 27, 2019.
- l. *R15-5-2009 (Transactions between Affiliated Persons Who Are Marketplace Facilitators, Marketplace Sellers, or Remote Sellers)*. This rule is being added to specify that in determining whether a marketplace facilitator or remote seller’s sales meet the threshold, the retail sales of the marketplace facilitator or remote seller’s affiliates must be aggregated. In addition, if all sales when aggregated meet the threshold, all affiliates are required to obtain an Arizona TPT license. However, the affiliates need to file consolidated returns.
- m. *R15-5-2201 (Display and Issuance of License)*. This rule is amended to provide that remote sellers and marketplace facilitators lacking a physical presence in Arizona are not considered to maintain a public place of business in Arizona and, thus, are not required to display their TPT licenses for public view. However, as licensees, they will still be required to maintain copies or equivalent documentation of such licenses.
- n. *R15-5-2202 (Change in Ownership)*. This rule is amended to comply with the statutory provisions of A.R.S. 42-5005(G), which provides that a TPT license is not transferable upon a *complete* change of ownership or change of location. A former provision that required a new license for *any* change in ownership has been stricken.
- o. *R15-5-2204 (Change of Business Location or Mailing Address)*. This rule is amended to clarify that a business may change its location on record with the Department by a completing and submitting a form.
- p. *R15-5-2205 (Surrender of License upon Sale or Termination of Business)*. This rule is amended to clarify that a business may notify the Department of a sale or termination of a business or may surrender its TPT license by either submitting a completed paper form to the Department or through AZTaxes.gov.
- q. *R15-5-2206 (Cancellation of License)*. This rule is amended to specify that remote sellers and marketplace facilitators are permitted to cancel their TPT license if they did not meet the applicable threshold under A.R.S. § 42-5044 in the prior year.
- r. *R15-5-2207 (Taxpayer Bonds)*. This rule is amended to clarify that remote sellers and marketplace facilitators are not required to obtain a bond when initially registering for a TPT license, pursuant to the exemption under A.R.S. § 42-5006(E). However, subsequent to registration, the bonding provisions of A.R.S. § 42-1102 will apply.
- s. *R15-5-2212 (Reporting by Marketplace Facilitators and Remote Sellers)*. This rule is being added to specify that remote sellers and marketplace facilitators are required to report and remit taxes in aggregate by jurisdiction, not by location.
- t. *R15-5-2213*. This rule, which contained alternate reporting provisions, is repealed as superseded by statute.
- u. *R15-5-2215 (Return and Payment of Estimated Tax)*. This rule is amended to provide current estimated tax thresholds and replace obsolete statutory references.
- v. *R15-5-2216 (Liability Relief for Marketplace Facilitators and Remote Sellers)*. This rule interprets terms that HB 2757 did not define and explains the general circumstances under which the Department will grant liability relief to remote sellers and marketplace facilitators as statutorily authorized under A.R.S. § 42-5043.
- w. *R15-5-2217 (Reasonable Cause for Waiver of Civil Penalties)*. This rule provides general principles under which the Department will not apply penalties on the basis of reasonable cause, and specific instances in which the Department will waive civil penalties with or without receiving a request from a taxpayer.
- x. *R15-5-2220*. The rule is being repealed. HB 2757 supersedes subsection (A)’s guidance that out-of-state vendors selling to Arizona purchasers must obtain a use tax license, as out-of-state remote sellers and marketplace facilitators who meet the applicable statutory thresholds must be registered and licensed for transaction privilege tax, not use tax. Subsection (B), allowing a taxpayer collecting use tax on an isolated sale to file and remit via cover letter rather than the Department’s return, has been preserved in amended form in R15-5-2310(B).
- y. *R15-5-2301 (Definitions)*. This rule is amended to remove obsolete definitions and to update the definition of the term “retailer” to exclude remote sellers and marketplace facilitators that do not meet the applicable threshold. A definition for the term “utility business” is added.
- z. *R15-5-2302 (General)*. This rule is amended to remove definitions now included in R15-5-2301, which defines terms for all of A.A.C. Tit. 15, Ch. 5, Article 23.
- aa. *R15-5-2310 (Payment of Use Tax by Purchaser)*. The rule is amended to clarify that marketplace facilitators and remote sellers liable for retail TPT are not also required to collect use tax on such sales. HB 2757 supersedes subsection (A)’s guidance that out-of-state vendors selling to Arizona purchasers must obtain a use tax license, as out-of-state remote sellers and marketplace facilitators who meet the applicable statutory thresholds must be registered and licensed for transaction privilege tax, not use tax. Subsection (B), allowing a taxpayer collecting use tax on an isolated sale to file and remit via cover letter rather than the Department’s return, preserves a provision from former R15-5-2220(B).
- bb. *R15-5-2350*. An obsolete rule on mail-order retailers is repealed.

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

None



**8. 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. Summary of the economic, small business, and consumer impact, if applicable:**

Laws 2019, 1st Reg. Sess., Ch. 273, § 32 authorizes an exemption from the rulemaking requirements of A.R.S. Tit. 41, Ch. 6 for one year after the August 27, 2019 effective date. Consequently, this rulemaking is exempt from the requirements of the Arizona Administrative Procedure Act and no economic, small business, and consumer impact statement is required.

**10. Description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking, if applicable:**

Not applicable

**11. Agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

Despite the exemption granted to HB 2757's rulemaking, on August 13, 2019, the Department posted a draft version of proposed rules for public review and feedback. Based on comments received during this period and in addition to stylistic or typographical corrections made subsequent to the public comment draft, the Department has responded as follows:

a. *R15-5-101.*

- (i) Formatting corrections have been made to the final version to reflect the fact that the renumbering of existing rule language from R15-5-2001 to R15-5-101. Additional nonsubstantive stylistic and paragraph numbering changes have also been made subsequent to the public comment draft.
- (ii) The Department received questions regarding the change from the term "casual sale" under current administrative rules to "casual activity or sale" in this rulemaking. In fact, by referring to casual activities *or* sales, the language in the administrative rules simply parallels terminology actually used in statute. *See* A.R.S. § 42-5001(1) (defining "business" for purposes of the privilege and use tax levy and administration statutes to exclude "[c]asual activities or sales"). Moreover, city privilege tax codes also refer to casual activities *or* sales. *See* Model City Tax Code ("MCTC") § 100 (definitions of "business" and "casual activity or sale").

The Department also received questions on the casual activity or sale definition's reference to "used capital assets," which paraphrases similar language found in city privilege tax codes. *See* Model City Tax Code ("MCTC"), *id.* ("casual activity or sale" definition adopted by all Arizona cities and towns). By including this language, the Department wishes to make explicit the state's position that bulk transfers of assets resulting from such transactions as the sale of a business will generally not trigger TPT liability because such transfers would be considered casual activities or sales.

- (iii) The Department received comments expressing confusion over the use of the term "retailer" throughout A.A.C. Tit. 15, Ch. 5, specifically with regards to its intended scope. Retailer is statutorily defined in A.R.S. § 42-5001 to include "every person engaged in the business" and can include, "when in the opinion of the department it is necessary for the efficient administration of this article, includes dealers distributors, supervisors, employers and salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them." It is notable that this longstanding statutory definition may differ from colloquial or industry usage of the term.

Consequently, the Department has added a "retailer" definition in R15-5-101(8) that cross-references the statutory definition *and* specifically clarifies that the term includes wholesalers, manufacturers, and any other seller of tangible personal property to Arizona purchasers. To wit, such persons are subject to the reporting provisions for retail privilege taxes on sales to Arizona purchasers, even if all of their gross receipts derived from such transactions are rendered nontaxable by application of deductions, exclusions, or exemptions.

- b. *R15-5-133.* In the public comment draft of the rules, the Department proposed changes to R15-5-133 to amend its treatment of a retailer's additional charges for shipping, handling, and similar services to conform it to A.R.S. § 42-5061(A)(2)'s exemption for "[s]ervices rendered in addition to selling tangible personal property at retail," which is distinguishable from A.R.S. § 42-5002(A)(2)'s exclusion for freight costs. However, due to questions and concerns over the Department's proposed approach that were raised by commenters, the Department removed the rule from this rulemaking to allow for further review and discussion.

c. *R15-5-151.*

- (i) The Section title has been changed from "Artists" to "Artists and Sales of Artwork" to more accurately describe the subject matter covered by the rule.
- (ii) Based on recommendations received, the Department removed direct references to municipal tax codes within language in subsection (C)(2) addressing the fine art exemption.

d. *R15-5-2002.*

- (i) The Department received comments questioning aspects of its pre-HB 2757 position (as articulated in *Arizona Transaction Privilege Tax Ruling* TPR 16-1 (Sept. 20, 2016), which will be separately rescinded and superseded by this rulemaking) that the presence of employees, independent contractors, or non-employee representatives or agents of a retailer within Arizona for more than two days per calendar year may be sufficient to establish a substantial physical presence nexus with Arizona. The Department acknowledges that it is reasonable to infer that, with the promulgation of HB 2757's economic nexus principles, the parameters for establishing a retail business's physical presence in Arizona necessarily contract. For this reason, the Department will only consider activities significantly associated with a



retailer's ability to establish and maintain a market in this state for its sales *if they are not of a transitory nature*. On this basis, the two-day factors were rejected as activities of a potentially transitory nature and the references removed from subsection (B). This is distinguishable from a situation in which an ostensibly out-of-state retailer comes into Arizona and makes sales from within the state at a trade show or exhibition, as discussed in the following paragraphs.

- (ii) Even if a retailer's non-transitory physical presence in Arizona is established, the question remains as to when the retailer is relieved of its duties to report and remit retail TPT following its departure from the state. In response, the Department has added new language in subsection (E) providing that the retailer's trailing nexus ends on the last day of the month in which the business terminates its physical presence in Arizona. A notable exception exists, however, for a seasonal or special event licensee, as explained below.

The Department will *not* deem a retailer's in-state business activities to be of a transitory nature if the activities generate gross receipts and either of the following applies: (a) the activities are ongoing and regularly conducted from inside Arizona or (b) the retailer regularly conducts the same business activities outside the state and engages in that activity from within Arizona, from which it generates taxable gross receipts. A common example of this principle involves businesses from outside the state traveling to Arizona to participate in a trade show or exhibition. In such instances, the businesses may make a discrete number of sales at the show or exhibition but will, at the event's conclusion, return to its business location outside of Arizona. Although the businesses' sales made from within Arizona will clearly be subject to retail privilege taxes, the question remains as to whether they will bear an ongoing liability to report and remit Arizona retail TPT on sales made to Arizona following their departure from the state.

In such cases, if the retailer obtains a *seasonal* or *special event* license from the Department to report and remit any applicable retail tax on sales made at the event, it will be able to terminate its obligation to report and remit TPT for sales to Arizona customers if it cancels the license after reporting and remitting the tax. This special event scenario is a limited exception to the general application of trailing nexus.

To further illustrate the application of this principle, the Department has added examples in subsections (D)(6) and (7) of an out-of-state retailer making sales at a hypothetical special event in Arizona and an Arizona-based retailer selling at the same event.

- (iii) Based on questions received regarding the nature of a retailer's real or personal property used or stored in Arizona and its resulting effect on the business's physical presence nexus, the Department has made two clarifications. For purposes of a retailer's office or other place of business maintained in this state, language has been added to explain that the location need not perform a function related to sales, but must otherwise be maintained for a business function, thereby excluding in-state properties used for purposes wholly unrelated to the business (*e.g.*, vacation property). Regarding a retailer's inventory of goods stored in Arizona, such activity would only be relevant to physical presence nexus if stored under the retailer's direction and control. In many cases, a third party logistics provider may direct and control where and how a retailer's inventory is stored. In such cases, the fact that an out-of-state retailer's inventory of goods are stored in Arizona would not be relevant to determining the business's physical presence in the state.
  - (iv) References throughout the rule have been conformed to correctly refer to "retailers" rather than generically to "persons," "companies," or "businesses." This change is expected to reduce the likelihood of confusion by properly limiting the scope of the rule to those transactions that may be subject to retail TPT.
  - (v) Based on questions received, the Department added an additional example in subsection (D)(5) to address a remote worker of an out-of-state retailer who is temporarily within the state and performing activities that, while constituting routine business functions (*i.e.*, bookkeeping), are not significantly associated with the retailer's ability to establish and maintain an Arizona market for its goods. As such, the activity would not be considered a factor in determining whether the retailer has sufficient physical presence in Arizona.
- e. *R15-5-2004*.
    - (i) Based on questions received, the Department has amended language referring to copies of exemption certificates that taxpayers need to maintain to clarify that they can be digital copies or hard copies.
    - (ii) Based on concerns expressed by marketplace facilitators that are current taxpayers filing on behalf of a multitude of marketplace sellers, the Department has amended the rulemaking to provide a safe harbor for those marketplace facilitators that have *already* been filing on their own behalf and on behalf of such sellers for periods before the August 27, 2019 effective date. In such cases, an alternate method for demonstrating what portion of the marketplace facilitators' TPT liability is attributable to sales on behalf of marketplace sellers will be permitted on audit or for the purpose of claiming liability relief.
  - f. *R15-5-2201*. Based on a suggested correction, the Department has clarified that a marketplace facilitator lacking a physical presence in Arizona, as well a remote seller, will not be required to post a copy of its Arizona TPT license in a conspicuous public location in its business.
  - g. *R15-5-2216*.
    - (i) Based on a suggested correction, the Department amended the definition of "incorrect information" that may prompt liability relief for a marketplace facilitator to specify that such erroneous information must be furnished to the marketplace facilitator by a marketplace seller. While a commenter ask whether the exclusion of "[f]ailure to remit all amounts collected and represented as tax" from the definition was limited to amounts separately stated on invoices, the clarification of the source of the information (*i.e.*, a marketplace facilitator's marketplace sellers) addresses the fact that the language refers to amounts represented as tax in the underlying marketplace sellers' sales to purchasers.



- (ii) A commenter found issue with the examples of reasonable cause for liability relief purposes found in subsection (D). In response, the Department has amended the language to clarify that such examples are not exhaustive.
- (iii) The Department received concerns over the conclusions drawn in the example provided in subsection (E)(1). Specifically, the Department concluded that a marketplace facilitator’s liability relief is based on the applicable percentage as applied to the total tax due for all Arizona sales made by marketplace sellers through the marketplace facilitator. The commenters argued that this interpretation seemed overly broad and beyond the legislative intent of the statute as they understood it to be, based on personal involvement in the legislative process.

However, absent any ambiguity, the Department relies upon the plain language of the statute to effectuate legislative intent, giving words contained within their ordinary meanings unless a different meaning appears to be intended. *SolarCity Corp. v. Ariz. Dep’t of Revenue*, 243 Ariz. 477, 480 (2018); *Ariz. Elec. Power Coop., Inc. v. State ex rel. Dep’t of Revenue*, 243 Ariz. 264, 266 (App. 2017). The liability relief granted to a marketplace facilitator under A.R.S. § 42-5043(B) is applied as against the “total tax due under this chapter on taxable sales facilitated by the marketplace facilitator on behalf of a marketplace seller and sourced to this state under section 42-5040 during the same calendar year.” The language is unambiguous, unless one argued that “taxable sales . . . of a marketplace seller” literally were to a single marketplace seller. This reading would seem unnatural and unsupported by the related provisions of the statute. Consequently, the Department declined to make any change to the example.

- (iii) A minor change was made to the amounts used in the example in subsection (E)(2) to reduce confusion, as it was an amount coincidentally similar to a figure used in a separate example.
- h. *R15-5-2301*. As noted by several commenters, the definition for “mail order retailer” is outdated and, in any event, no longer required because of the repeal of R15-5-2350. As such, R15-5-2301(1) has been struck from this rule.

Based on issues raised in stakeholder discussions, the Department anticipates amending its existing rules in subsequent rulemaking actions on retail sales topics including: shipping and handling charges; photography; and prescription drugs, durable medical equipment, and prosthetic appliances.

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

None

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

No

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

No

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

No

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

None

**14. Whether the rules were previously made, amended, or repealed as emergency rules (if so, state where the text changed between the emergency and final rulemaking packages):**

No

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

**TITLE 15. REVENUE  
CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION**

**ARTICLE 1. RETAIL CLASSIFICATION**

Section

~~R15-5-2001~~ R15-5-101. Definitions

R15-5-102. Casual ~~Activities~~ or Sales

~~R15-5-104~~ R15-5-107. Sales for Resale or Lease

R15-5-111. Consignment Sales

R15-5-112. Sales by Auctioneers

R15-5-151. Artists ~~and~~ Sales of Artwork

R15-5-155. ~~Reserved~~ Delivery Sales of Tobacco Products

**~~ARTICLE 18. SALES TAX – RETAIL CLASSIFICATION REPEALED~~**

**ARTICLE 20. GENERAL ADMINISTRATION**

Section

R15-5-2001. Renumbered

R15-5-2002. Liability for Transaction Privilege Tax

R15-5-2003. ~~Repealed~~ Applicability of Provisions to Marketplace Facilitators and Remote Sellers

R15-5-2004. ~~Multi-location~~ Multi-Location and ~~Multi-business~~ Multi-Business Taxpayers



R15-5-2009. ~~Reserved~~ Transactions between Affiliated Persons Who Are Marketplace Facilitators, Marketplace Sellers, or Remote Sellers

**ARTICLE 22. TRANSACTION PRIVILEGE TAX - ADMINISTRATION**

Section

- R15-5-2201. Display ~~and Issuance~~ of License
- R15-5-2202. Change in Ownership
- R15-5-2204. Change of Business Location or Mailing Address
- R15-5-2205. Surrender of License upon Sale or Termination of Business
- R15-5-2206. Cancellation of License
- R15-5-2207. Taxpayer Bonds
- R15-5-2212. ~~Expired Reporting by Marketplace Facilitators and Remote Sellers~~
- R15-5-2213. ~~Alternative Reporting Repealed~~
- R15-5-2215. Return and Payment of ~~Tax-estimated~~ Estimated Tax
- R15-5-2216. ~~Repealed Liability Relief for Marketplace Facilitators and Remote Sellers~~
- R15-5-2217. ~~Repealed Reasonable Cause for Waiver of Civil Penalties~~
- R15-5-2220. ~~Registration and Licensing Repealed~~

**ARTICLE 23. USE TAX**

Section

- R15-5-2301. Definitions
- R15-5-2302. General
- R15-5-2310. Payment of Use Tax by Purchaser
- R15-5-2350. ~~Mail-Order Retailers Repealed~~

**ARTICLE 1. RETAIL CLASSIFICATION**

~~R15-5-2001-R15-5-101.~~ **Definitions**

The following definitions apply for the purposes of the rules in In this Chapter, unless the context requires otherwise or unless otherwise defined. ~~An individual rule may contain definitions which are specific to the context of that rule.~~

1. "AZTaxes.gov" has the same meaning as prescribed in R15-10-301.
- ~~1-2.~~ "Casual activity or sale" means an occasional transaction of an isolated nature made by a person persons who is not engaged in the business of selling, within or without the state, the same type or character of property as that which was sold neither represent themselves to be nor are engaged in a business that is subject to transaction privilege tax. Casual activity or sale includes, but is not limited to, sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.
- ~~2-3.~~ "Department" means the Arizona Department of Revenue has the same meaning as prescribed in A.R.S. § 42-1001.
- ~~3-4.~~ "Gross income," means all receipts of a trade or business from sales or services. It includes the total consideration received or constructively received. The value of all services which are part of the sale is considered part of the gross income, unless excluded "gross receipts," "marketplace facilitator," and "marketplace seller" have the same meanings as prescribed in A.R.S. § 42-5001.
4. "Gross receipts" means gross receipts as defined in A.R.S. § 42-5001.
5. "Real property" means land and anything permanently affixed to land.
6. "Taxpayer" means any person required by law to file returns or to pay transaction privilege tax, use tax, rental occupancy tax, or excise taxes to the Department.
6. "Remote seller" has the same meaning as prescribed in A.R.S. § 42-5001.
7. "Retailer" has the same meaning as prescribed in A.R.S. § 42-5001, and includes a wholesaler, manufacturer, or other seller of tangible personal property.
8. "Taxpayer" has the same meaning as prescribed in A.R.S. § 42-5001.
- ~~7-9.~~ "Vendor" means any person engaged in a business which activity that is subject to Arizona any tax levied under A.R.S. Title 42, Chapter 5 and 6, including a retailer.

**R15-5-102. Casual Activities or Sales**

- ~~A.~~ Gross receipts from a casual activity or sale, as defined in R15-5-2001, are not taxable under the retail classification.
- ~~B.~~ Except as otherwise provided in R15-5-2002, a retailer, including as a marketplace facilitator or remote seller, cannot engage in a casual sale of tangible personal property of the same type or character as that which the person regularly sells at retail. A marketplace facilitator is deemed to regularly sell any tangible personal property sold on its marketplace.

~~R15-5-101-R15-5-107.~~ **Sales for Resale or Lease**

- A. Gross receipts from the sale of tangible personal property to be resold by the purchaser in the ordinary course of business are not subject to tax under the retail classification.
- B. Gross receipts from the sale of tangible personal property to be leased by a person in the business of leasing such personal property are not subject to tax under the retail classification.
- C. Gross receipts from the sale of tangible personal property to a lessor of real property are subject to tax if:
  1. The tangible personal property is incorporated into, or leased in conjunction with, the real property; and
  2. The rental of the tangible personal property is not separately stated as part of the real property lease transaction.



- D. Gross receipts from the sale of repair or replacement parts for tangible personal property that is to be leased by a person engaged in the business of leasing such tangible personal property are not subject to tax under the retail classification.

**R15-5-111. Consignment Sales**

- A. ~~The following definitions apply for purposes of this rule~~ In this Section:
1. “Consignee” means the party that is in the business of selling tangible personal property belonging to a consignor.
  2. “Consignor” means the party with the legal right to contract the services of the consignee to sell tangible personal property on behalf of the consignor.
- B. Gross receipts from consignment sales are subject to tax under the retail classification.
- C. ~~A~~ Except as provided in subsection (D), a consignee shall obtain a transaction privilege tax license before making consignment sales.
- D. A consignee who is a marketplace facilitator without a physical presence in Arizona, as provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon meeting the threshold requirements in A.R.S. § 42-5044.

**R15-5-112. Sales by Auctioneers**

- A. Gross receipts from the sales of tangible personal property by an auctioneer are subject to tax under the retail classification.
- B. ~~An~~ Except as provided in subsection (C), an auctioneer shall obtain a transaction privilege tax license ~~prior to~~ before conducting an auction.
- C. An auctioneer who is a marketplace facilitator without a physical presence in Arizona, as provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon meeting the threshold requirements in A.R.S. § 42-5044.

**R15-5-151. Artists and Sales of Artwork**

- A. Gross receipts from the sale of paintings, drawings, etchings, sculptures, craftwork, other artwork or reproductions of such items to final consumers shall be taxable under the retail classification if the person is making regular sales of these items.
- B. Gross receipts from the sale of paints, canvasses, frames, sculpture ingredients, and other items which will become an integral part of the finished product shall not be taxable if sold to a creating artist who is regularly engaged in the business of creating and selling paintings, drawings, etchings, sculptures, craftwork, other artwork, or reproductions of such items. Sales of brushes, easels, tools, and similar items to be consumed by the creating artist shall be taxable.
- C. ~~Gross~~ Except as otherwise provided in A.R.S. § 42-6017, gross receipts from the sale by the creating artist of a painting, drawing, etching, sculpture, or a piece of craftwork that is not a reproduction of an original work shall not be taxable if:
1. The sale is a casual ~~activity or sale pursuant to the definition in R15-5-1812;~~ or
  2. The sale is a work of fine art at an art auction or gallery in this state to a nonresident of this state for use outside the state, if the retailer ships or delivers the work to a destination outside this state and if exempt under A.R.S. § 42-5061(A). In this subsection, “work of fine art” has the same meaning as prescribed in A.R.S. § 44-1771.
  3. The sale is of commissioned artwork by an individual artist. For purposes of In this rule subsection, “commissioned artwork” is a custom, one-of-a-kind art creation made by the individual artist pursuant to the particular requirements of a specific purchaser.

**R15-5-155. ~~Reserved~~ Delivery Sales of Tobacco Products**

- A. In this Section:
1. “Delivery sale” means a sale made by using any of the following:
    - a. The mail or a delivery service.
    - b. The Internet or a computer network.
    - c. Any other electronic method.
  2. “Tobacco product” has the same meaning as prescribed in A.R.S. § 36-798.06.
- B. A retailer, including a remote seller or marketplace seller, or marketplace facilitator shall not make or facilitate a delivery sale of any tobacco product that violates A.R.S. § 36-798.06.

**ARTICLE 18. SALES TAX—RETAIL CLASSIFICATION REPEALED**

**ARTICLE 20. GENERAL ADMINISTRATION**

**R15-5-2001. Renumbered**

**R15-5-2002. Liability for Transaction Privilege Tax**

- A. The transaction privilege tax is imposed directly on the person engaged in a taxable business in or within Arizona, including a retailer located outside the state who is engaging or continuing in business in this state as a remote seller or marketplace facilitator and who meets the threshold requirements in A.R.S. § 42-5044. The vendor shall be liable for the tax, regardless of whether or not the vendor passes on the economic burden of the tax to the customer.
- B. A retailer establishes its physical presence within Arizona by activities performed in this state on its behalf that are significantly associated with the retailer’s ability to establish and maintain a market in this state for its sales. Activities and factors that, by themselves or in conjunction with others, establish a retailer’s physical presence within Arizona include the following:
1. The retailer maintains an office or other place of business in Arizona, regardless of whether such location performs a sales-related or other business function.
  2. The retailer owns or leases real or personal property in Arizona.
  3. The retailer maintains an inventory of products in Arizona at its own direction and control.
  4. The retailer’s merchandise or goods are delivered into Arizona on vehicles owned or leased by the retailer and the retailer makes such deliveries into Arizona on an ongoing basis.
  5. Other local activities performed by the retailer’s employees, agents, representatives, contractors, or affiliated persons in Arizona that enable the retailer to maintain and improve its name recognition, market share or sales volume, goodwill, and individual customer relations may establish physical presence if the activities are not of a transitory nature, as described in subsections (D) and (E). Such activities may include: soliciting sales through an ongoing local marketing contract; delivering, installing or



repairing property sold to customers through an ongoing contract with either the customer or a local partner; or conducting training or similar support services for customers or for employees or representatives of the retailer on an ongoing basis.

- C.** A retailer having a physical presence within Arizona as described in subsection (B) of this Section shall be considered liable for transaction privilege tax as a taxpayer located within Arizona.
- D.** A retailer’s activities in Arizona are not of a transitory nature if such activities generate gross receipts, are ongoing, and are regularly conducted from within the state. Alternately, a retailer’s activities in Arizona are not of a transitory nature if such activities generate gross receipts and the retailer regularly conducts the same business activities outside of Arizona.
  - 1. Example: Employees who travel to Arizona for a business meeting, conference, or similar event and who do not otherwise engage in a taxable business activity during their time within the state would not establish physical presence in Arizona, regardless of the duration of their stay. Such stays would not be considered ongoing, even though the events take place in Arizona.
  - 2. Example: A retailer that provides remote one-time assistance to a customer who has a specific problem installing or using a product purchased remotely would not establish physical presence. The retailer’s assistance does not appear ongoing and the activity is conducted from outside the state.
  - 3. Example: A retailer that sells WiFi-enabled (IoT) appliances also offers a service contract that allows its technicians to remotely access its customers’ appliances to regularly update, maintain, or troubleshoot firmware. The provision of services through such contracts with Arizona customers would not establish physical presence for the retailer. The retailer’s services, while ongoing, are conducted from outside the state.
  - 4. Example: A retailer that has a salesperson who regularly travels to Arizona for the purposes of selling goods and services and supporting previously sold goods and services may have physical presence, even if the salesperson is a resident of California and only present in Arizona temporarily throughout the calendar year. The retailer’s sales activities, as conducted through its salesperson, are ongoing and conducted from within the state.
  - 5. Example: A retailer’s employee who is a Nevada resident but is working remotely from Arizona while on vacation, performing bookkeeping and other routine business functions, does not establish physical presence in Arizona for the business. The employee’s in-state activities are not significantly associated with a retailer’s ability to establish and maintain a market in Arizona for its sales.
  - 6. Example: A new Utah-based retailer that has never made any sales to Arizona purchasers brings an inventory of crystals to sell at a two-day mineral and fossil show in Arizona. Over the two-day period, the retailer makes \$3,000 in sales. As an out-of-state retailer making sales from within Arizona who has not met the threshold requirements in A.R.S. § 42-5044, the retailer will incur an Arizona transaction privilege tax liability on the sales it makes at the show. Such Arizona-based sales are not considered for purposes of meeting the threshold requirements for a remote seller, pursuant to A.R.S. § 42-5044. If the retailer does not anticipate conducting additional sales from within Arizona on an ongoing basis, it should apply for a seasonal license to participate in the show.
  - 7. Example: At the same mineral and fossil show described in subsection (D)(6), an new Arizona-based retailer of semi-precious gems also brings an inventory to sell at the show for the first time. As a retail business located in Arizona, the retailer must be licensed and must report and remit Arizona transaction privilege tax on its sales made at the show.
- E.** Effective October 1, 2019, a retailer that establishes physical presence in Arizona pursuant to this rule shall continue to be responsible for reporting and remitting transaction privilege tax for the duration of such physical presence. If the retailer terminates its physical presence in the state, it shall report and remit transaction privilege tax for all transactions occurring on or before the last day of the month in which the vendor terminates its physical presence.

**R15-5-2003. ~~Repealed~~ Applicability of Provisions to Marketplace Facilitators and Remote Sellers**  
Articles 1, 20, and 22 of this Chapter apply to any marketplace facilitator or remote seller who meets the threshold requirements in A.R.S. § 42-5044.

- R15-5-2004. ~~Multi-location~~ Multi-Location and ~~Multi-business~~ Multi-Business Taxpayers**
  - A.** A taxpayer with multiple licenses for separate businesses shall maintain separate records for each licensed business, including details relating to the computation of taxes and exempt sales and digital or hard copies of applicable exemption certificates, as provided in subsection (B).
  - B.** The Department may request that records required to be maintained under this Section be made accessible for inspection or copying. To the extent reasonable or possible, the taxpayer shall make these records available to the Department in an electronic format, if requested.
  - ~~**C.**~~ A tax is levied upon the privilege of engaging in specified businesses within Arizona. Class codes for reporting gross receipts subject to tax have been determined by the Department based on statutory provisions. Each business classification is independent of the others even when transacted under one license. A person who engages in more than one type of business under each license shall maintain books and records so that the gross proceeds of sales or gross income of each taxable business classification is shown separately.
  - D.** Except as provided in subsection (E), a marketplace facilitator shall maintain records that separately show sales made on its own behalf and sales made on behalf of marketplace sellers. Such records shall include details relating to the computation of taxes and exempt sales and also include digital or hard copies of applicable exemption certificates, as provided in subsection (B).
  - E.** If a marketplace facilitator reported through non-amended returns and remitted transaction privilege tax on sales made on its own behalf and sales made on behalf of marketplace sellers for tax periods on or before August 27, 2019, the marketplace facilitator shall maintain records that show details relating to the computation of taxes and exempt sales, and also include copies of applicable exemption certificates for both sales made on their own behalf and on behalf of a marketplace seller. A marketplace facilitator shall have an alternate method to demonstrate the portion of sales made on behalf of marketplace sellers if under audit or for the purposes of claiming liability relief under A.R.S. § 42-5043 and R15-5-2216.
  - F.** A remote seller shall maintain records that separately show sales made directly to its own customers and sales made on its behalf through a marketplace facilitator. Such records shall include details relating to the computation of taxes and exempt sales and also include digital or hard copies of applicable exemption certificates, as provided in subsection (B).



~~C.G.~~ Failure to maintain appropriate books and records shall result in the imposition of the tax at the highest tax rate on gross proceeds of sales or gross income applicable to a classification under which the taxpayer is doing business.

**R15-5-2009. ~~Reserved~~ Transactions Between Affiliated Persons Who Are Marketplace Facilitators, Marketplace Sellers, or Remote Sellers**

- A.** In this Section, “affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.
- B.** For the purposes of determining whether a remote seller or marketplace facilitator meets the threshold requirements in A.R.S. § 42-5044, the sales of marketplace facilitators and remote sellers who are affiliated persons shall be aggregated. If the threshold is met after aggregation of such sales, then all affiliated marketplace facilitators and remote sellers shall register with the Department for the filing and remission of retail transaction privilege tax. Marketplace facilitators and remote sellers who are affiliated persons are required to register with the Department and obtain a transaction privilege tax license under this Section for each affiliated person even if some or none of the affiliated persons would meet the threshold on an individual basis.
- C.** A marketplace facilitator or remote seller with affiliated persons who meets the threshold requirements in A.R.S. § 42-5044 are not required to file consolidated returns.
- D.** For the purposes of determining whether a remote seller meets the threshold requirements in A.R.S. § 42-5044, only the remote seller’s sales that are not facilitated on a marketplace shall be counted towards its threshold.

**ARTICLE 22. TRANSACTION PRIVILEGE TAX - ADMINISTRATION**

**R15-5-2201. Display and Issuance of License**

- A.** A person maintaining a public place of business in Arizona shall display the transaction privilege tax license in a location conspicuous to the public. For the purposes of this subsection, a remote seller or marketplace facilitator who lacks an in-state physical presence as provided in R15-5-2002 is not considered to maintain a public place of business in Arizona.
- B.** If a person maintains more than one place of business in Arizona, a transaction privilege tax license shall be displayed at each location.
- C.** For lessors engaged in the business of commercial leasing, a transaction privilege tax license shall be displayed in each location from which the lessor engages in business transactions.
- D.** The Department may issue a transaction privilege tax license to a licensee in either a hard copy format or digitally, including through AZTaxes.gov. Licensees shall maintain copies or equivalent documentation of their transaction privilege tax licenses for the record retention period prescribed in A.R.S. Title 42, Chapter 1.
- E.** A transaction privilege tax license issued by the Department is for administering and collecting transaction privilege tax and is not issued for the purpose of authorizing a business to operate in this state, pursuant to A.R.S. § 41-1080 and except as otherwise required by law.

**R15-5-2202. Change in Ownership**

- A.** A transaction privilege tax or use tax license is issued to a specific person. The license shall not be transferred to the new owner when selling a business. The new owner shall apply to the state for a new license before engaging in business transactions.
- B.** Court-appointed trustees, receivers, and others in cases of liquidation or operational bankruptcies shall obtain a transaction privilege tax or use tax license.
- ~~C.~~ If a licensee has any change in ownership, the licensee shall apply for a new license.

**R15-5-2204. Change of Business Location or Mailing Address**

- A.** The taxpayer shall apply for a new transaction privilege tax or use tax license if the physical location of the business changes.
- B.** The taxpayer shall notify the Department ~~in writing~~ of a change in mailing address by submitting a form prescribed by the Department or through AZTaxes.gov.

**R15-5-2205. Surrender of License upon Sale or Termination of Business**

- A.** If a business is sold or terminated, the taxpayer shall notify the Department ~~in writing~~ of the date of sale or termination by submitting a form prescribed by the Department or through AZTaxes.gov and shall surrender the transaction privilege tax or use tax license to the Department.
- B.** For the purposes of A.R.S. § 42-5005 and this Section, the Department shall consider a license surrendered if the licensee submits a request to cancel its license by submitting a form prescribed by the Department or through AZTaxes.gov.

**R15-5-2206. Cancellation of License**

- A.** In this Section, “affiliated person” has the same meaning as prescribed in A.R.S. § 42-5043.
- ~~A.B.~~ The Department may cancel a license if:
1. During any consecutive 12-month period, the licensee reports no taxable transaction; and
  2. The licensee is not a subcontractor or wholesaler.
- ~~B.C.~~ The Department shall notify a licensee in writing of its intention to cancel the license. The notice shall explain the action the licensee may take to contest cancellation of the license and when cancellation is final.
- ~~C.D.~~ The Department shall cancel a license 30 days after the notice of intention to cancel is mailed unless, within 30 days, the licensee objects to the cancellation in writing and produces documentation that the licensee is actively engaged in a taxable business. Suitable documentation includes, but is not limited to, the following:
1. Evidence that the licensee holds an inventory of raw or finished tangible personal property for sale or resale;
  2. Evidence that the licensee maintains segregated bank accounts for the purpose of transacting business;
  3. Bona fide contracts for future sale or resale of tangible personal property;
  4. Profit and loss statements for federal or state income tax purposes; or
  5. Evidence that the licensee otherwise actually engages in bona fide business activities.



- ~~D-E.~~ Within 30 days of receipt of the licensee’s objections and documentation, the Department shall notify the licensee in writing of its decision to cancel or retain the license. If the decision is to cancel the license, the licensee may request an administrative hearing.
- E. Except as provided in subsection (G), a marketplace facilitator or remote seller may choose not to renew a license or cancel a license for the following calendar year if the sales of the marketplace facilitator or remote seller to Arizona purchasers fall below the current year threshold in A.R.S. § 42-5044 in the prior year.
- G. A marketplace facilitator or remote seller may choose not to renew a license or cancel a license for the following calendar year if the current year sales of the marketplace facilitator or remote seller, together with the aggregated sales of all affiliated persons of the marketplace facilitator or remote seller to Arizona purchasers, fall below the current year threshold in A.R.S. § 42-5044 in the prior year.

**R15-5-2207. Taxpayer Bonds**

- A. The amount of the bond required under A.R.S. § ~~42-112~~ 42-1102 shall be the greater of five hundred dollars, or:
  1. For licensees reporting monthly, four times the average monthly liability;
  2. For licensees reporting quarterly, six times the average monthly tax liability; or
  3. For licensees reporting annually, fourteen times the average monthly tax liability.
- B. For purposes of determining the bond amount, the average monthly tax liability is equal to the average monthly tax due from the licensee for the preceding six consecutive months. If an applicant does not have a six-month payment history, the bond amount shall be a minimum of five hundred dollars.
- C. If a licensee provides a surety bond and the bond lapses, the licensee must deposit with the Department cash or other security in an amount equal to the lapsed surety bond within five business days of the licensee’s receipt of written notification by the Department.
- D. The bond amount may be increased or decreased as necessary based upon a change in the licensee’s previous filing period, filing compliance record, or payment history. If the bond amount has been increased above the amount computed under subsection (B) of this rule, the licensee may request a hearing pursuant to ~~A.R.S. § 42-112~~ A.R.S. § 42-1102 to show why the order increasing the bond amount is in error.
- E. Except as required under A.R.S. § 42-1102, this Section shall not be construed to require a bond under A.R.S. § 42-5006 for any license issued pursuant to the criteria established in A.R.S. § 42-5044.

**R15-5-2212. Expired Reporting by Marketplace Facilitators and Remote Sellers**

Marketplace facilitators and remote sellers registered with the Department shall report and remit the applicable taxes payable pursuant to A.R.S. § 42-5044 in aggregate total amounts for each applicable jurisdiction designated by AZTaxes.gov. A marketplace facilitator shall not be required to list or otherwise identify any individual marketplace seller on any return or attachment to a return.

**R15-5-2213. Alternative Reporting Repealed**

- ~~A.~~ The Department shall authorize taxpayers to report on an annual or quarterly basis, if the taxpayer has established a filing history that shows that the taxpayer is not currently delinquent and that the taxpayer’s annual tax liability is between \$500 and \$1,250 for quarterly reporting or \$500 or less for annual reporting.
- ~~B.~~ The Department shall authorize new businesses that reasonably estimate their annual tax liability for the succeeding 12 months will be between \$500 and \$1,250 to report and remit tax on a quarterly basis.
- ~~C.~~ A taxpayer shall increase the reporting frequency to monthly and notify the Department of the change in reporting if the taxpayer’s annual tax liability equals or exceeds or can reasonably be expected to equal or exceed \$1,250. The taxpayer shall increase the reporting frequency to quarterly and notify the Department of the change in reporting if the taxpayer’s annual tax liability exceeds or can reasonably be expected to exceed \$500, but is or will be less than \$1,250. Failure to increase reporting frequency will subject the taxpayer to interest. Failure to increase reporting frequency will also subject the taxpayer to penalties unless the taxpayer can show that the failure was due to reasonable cause and not willful neglect.
- ~~D.~~ A taxpayer shall begin to report on a monthly basis at any time during a 12 month period if the annualized tax liability for the taxpayer reporting on an annual or quarterly basis equals or exceeds \$1,250. A taxpayer shall begin to report on a quarterly basis at any time during a 12 month period if the annualized tax liability for the taxpayer reporting on an annual basis is expected to exceed \$500, but be less than \$1,250.

**R15-5-2215. Return and Payment of ~~Tax-estimated~~ Estimated Tax**

- A. For purposes of this rule, the following definitions apply:
  1. “Annual estimated tax payment” means ½ of the total tax liability for the entire month of May or the total tax liability for the first 15 days of the month of June.
  2. “Annual tax liability” means a total tax liability of ~~\$100,000.00 or more~~ in the preceding calendar year or a reasonable anticipation of a total tax liability of ~~\$100,000.00 or more~~ in the current year as follows:
    - \$1,000,000 in 2019
    - \$1,600,000 in 2020
    - \$2,300,000 in 2021
    - \$3,100,000 in 2022
    - \$4,100,000 in 2023 and thereafter.
  3. “Taxpayer” has the meaning set forth in ~~A.R.S. § 42-1322(J)~~ A.R.S. § 42-5014(S). The following are considered a single taxpayer:
    - a. Members of an Arizona-affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;
    - b. Corporations in a unitary business filing a combined corporate income tax return under ~~A.A.C. R15-2-1131(E)~~ R15-2D-401;
    - c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return; or
    - d. Partnerships, Limited Liability Companies, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.



4. "Total tax liability" means the combined total of the transaction privilege tax, telecommunications services excise tax, and county excise tax liabilities.
- B. The requirement to make an annual estimated tax payment is based on the annual tax liability. Use tax and severance tax are not subject to the estimated tax provisions.
  1. A taxpayer shall make an annual estimated tax payment if during the current calendar year the taxpayer, through use of ordinary business care and prudence, can anticipate incurring the annual tax liability. For example:
 

ABC Company has been selling home electronics for several years. Its tax liability for previous calendar years has averaged between ~~\$60,000~~ \$600,000 and ~~\$70,000~~ \$700,000. In February of the current year, ABC Company begins selling computers and accessories as well. Early sales reports show an increase in total sales of approximately 50%. Based on these facts, ABC Company can reasonably anticipate incurring the annual tax liability.
  2. Taxpayers with multiple locations shall make the annual estimated tax payment based on the combined actual or anticipated annual tax liability from all locations. Taxpayers with multiple locations, shall make a single estimated payment each June.
- C. A taxpayer shall not amend an annual estimated tax payment except to increase the amount of the payment.
- D. The annual estimated tax payment shall not be applied, credited, or refunded until a Transaction Privilege, Use, and Severance Tax Return (~~FPT-1~~) for the month of June is filed.
- E. Late payment, underpayment, or non-payment of the annual estimated tax payment shall result in the following:
  1. Application of the penalty provisions under ~~A.R.S. § 42-136~~ A.R.S. § 42-1125;
  2. Accrual of interest beginning from the due date of the annual estimated tax payment as prescribed in ~~A.R.S. § 42-1322(D)~~ A.R.S. § 42-5014(D); and
  3. Loss of the accounting credit, as defined in ~~A.R.S. § 42-1322.04~~ A.R.S. § 42-5017 for the June reporting period.
- F. Taxpayers who are not required to make the annual estimated tax payment but make a voluntary annual estimated payment are not subject to subsection (E).

#### **R15-5-2216. ~~Repealed~~ Liability Relief for Marketplace Facilitators and Remote Sellers**

- A. In this Section:
  1. "Affiliated person" has the same meaning as prescribed in A.R.S. § 42-5043.
  2. "Incorrect information" means any information that was given to the marketplace facilitator by the marketplace seller and that is not accurate. Incorrect information does not include any of the following:
    - a. Mistakes related to the process of filing a return, such as the frequency, non-filing, or manner of filing;
    - b. Mistakes related to the manner of remitting tax liability to the Department;
    - c. Failure to remit all amounts collected and represented as tax.
  3. "Errors other than sourcing" means errors related to the details of a sale and errors related to tax rates. "Errors other than sourcing" does not include any of the following:
    - a. Mistakes related to the process of filing a return, such as the frequency, non-filing, or manner of filing.
    - b. Mistakes related to the manner of remitting tax liability to the Department.
    - c. Failure to remit all amounts collected and represented as tax.
  4. "Taxable sales" means gross sales sourced to this state less any allowable deductions or exemptions.
- B. A marketplace facilitator or remote seller may apply for liability relief pursuant to A.R.S. § 42-5043 as outlined by Department-issued procedure.
- C. A marketplace facilitator or remote seller may not obtain liability relief under A.R.S. § 42-5043 if the marketplace facilitator or remote seller does not act in good faith. "Good faith" means acting with honesty and with no knowledge of circumstances that would render the marketplace facilitator or remote seller ineligible for liability relief.
- D. In processing an application for liability relief pursuant to A.R.S. § 42-5043, the Department will waive penalties and interest when reasonable cause exists. Whether reasonable cause exists is based on the facts and circumstances of the specific request for relief, which may include whether the marketplace facilitator should have known that the information provided by the marketplace seller was incorrect; whether the marketplace facilitator or remote seller applied for liability relief for the same errors other than the sourcing in the prior 12 months; and other relevant factors.
- E. The liability relief limitations provided in A.R.S. § 42-5043 for a marketplace facilitator shall be applied in relation to the total tax liability of all the marketplace sellers selling on the marketplace facilitator's marketplace. Nothing in this rule shall be construed as allowing any liability relief for a marketplace facilitator in relation to its own sales or sales on behalf of any of its affiliates.
  1. Example: ABC, a marketplace facilitator, applies for liability relief based on a filing error in 2019 because it applied a lower tax rate to all of one of its marketplace seller's sales. The total tax due for all taxable Arizona sales for all marketplace sellers' sales in 2019 is \$63,000. Liability relief may be granted to ABC for up to \$3,150 (5% × 63,000).
  2. Example: Assume the same facts as in the example found in subsection (E)(1). Besides sales that ABC facilitated on behalf of third-party marketplace sellers, ABC also made its own sales through its marketplace. These direct sales by ABC resulted in an actual combined tax liability of \$10,000 that ABC erroneously reported to the Department as \$5,000. ABC will not be granted liability relief for errors resulting from these direct sales.
  3. Example: In 2020, ABC, a marketplace facilitator, files an amended return based on incorrect information provided to it by one of its marketplace sellers. ABC applies for liability relief as soon as possible after discovering the error. The evidence shows that ABC acted in good faith and could not have known that the information was incorrect. This constitutes an error under A.R.S. § 42-5043(A)(1). This statutory provision authorizes the Department to grant relief, and there is no limitation on the amount of relief that can be granted. The Department may grant relief that is reasonable under the circumstances.
  4. Example: In 2020, XYZ, a remote seller, deducted amounts for sales that it thought were exempt, but after further research, realized were in fact taxable. XYZ's total tax due from its gross sales for the period under consideration is \$31,500. Pursuant to A.R.S. § 42-5043(B)(2), liability relief for XYZ's non-sourcing related error may be granted in any amount up to \$945 (3% × \$31,500).



- 5. Example: In 2022, ABC, a marketplace facilitator, files an amended return based on incorrect information provided to it by one of its marketplace sellers. In the same year, ABC also makes a filing error by using the incorrect tax rate on a sale. ABC applies for liability relief in both instances. The Department may grant liability relief under A.R.S. § 42-5043(A)(1) for errors resulting from the incorrect information provided to ABC by its seller. However, no liability relief is available for ABC’s filing error, pursuant to A.R.S. § 42-5043(B).
- 6. Example: XYZ, a remote seller, files a paper tax return late and also pays late. Consequently, XYZ accrues penalties for late filing, late payment, and filing in an inappropriate manner (i.e., not electronically through AZTaxes.gov). The Department may grant penalty relief in all instances if XYZ shows reasonable cause.

**R15-5-2217. ~~Repealed~~ Reasonable Cause for Waiver of Civil Penalties**

- ~~A.~~ Pursuant to A.R.S. 42-1125, the Department shall not apply specified civil penalties for failure to pay a required amount of transaction privilege tax or file a required transaction privilege return if reasonable cause exists and the failure to pay was not due to willful neglect or fraud. Generally, reasonable cause exists whenever a taxpayer uses prudent and timely business practices but nonetheless fails to fully comply with its tax remittance and reporting requirements due to circumstances beyond the taxpayer’s control.
- ~~B.~~ The Department must consider a taxpayer requesting waiver of civil penalties to have reasonable cause if a failure to pay transaction privilege tax due or file a required transaction privilege tax return was due to a system outage or other system unavailability—whether scheduled or unscheduled—of AZTaxes.gov that prevents or substantially interferes with a taxpayer’s ability to access, submit, or otherwise complete a required return or payment and submit the return or payment in the time required by law.
- ~~C.~~ The Department must consider a taxpayer requesting waiver of civil penalties to have reasonable cause if a failure to pay the full and correct amount of transaction privilege tax due or file a complete and correct transaction privilege tax return was due to a software- or application-based error by either AZTaxes.gov or a Department-approved vendor’s software to calculate and file a transaction privilege tax return, if the error demonstrably results in the incorrect calculation or payment of any taxes due.
- ~~D.~~ Except as provided in subsection (E), a taxpayer requesting waiver of civil penalties for reasonable cause shall notify the Department of the issue or error in writing within a reasonable time after becoming aware of the issue or error.
- ~~E.~~ The Department may waive civil penalties without requiring a written taxpayer request for any system outage, system unavailability, or other event or anomaly as described in subsections (B) and (C) if it becomes aware of the event or anomaly before issuing a penalty assessment.

**R15-5-2220. ~~Registration and Licensing Repealed~~**

- ~~A.~~ Out of state vendors making sales to Arizona purchasers shall obtain a use tax license from the Department.
- ~~B.~~ Use tax collected on an isolated sale to an Arizona customer may be remitted under a cover letter rather than on a standard report form.

**ARTICLE 23. USE TAX**

**R15-5-2301. Definitions**

The following definitions apply for the Department’s administration of use tax ~~In this Article:~~

- ~~1.~~ “Mail order retailer” means a retailer who solicits orders by mail, notwithstanding the fact that orders may be received by telephone or by mail or that goods may be delivered by mail or by private delivery system.
- ~~2-1.~~ “Purchases” means purchase for storage, use, or consumption in Arizona.
- ~~3-2.~~ “Retailer” includes any retailer located outside this state who solicits orders for tangible personal property by mail from points in this state if the solicitations are substantial and recurring has the same meaning as prescribed in A.R.S. § 42-5151, but does not include a marketplace facilitator or remote seller who meets the threshold requirements in A.R.S. § 42-5044.
- 3. “Utility business” has the same meaning as prescribed in A.R.S. § 42-5151.

**R15-5-2302. General**

- ~~A.~~ In this Section, “retailer” and “utility business” have the same meanings as prescribed in A.R.S. § 42-5151.
- ~~B-A.~~ A.R.S. § 42-5155 imposes Arizona use tax upon a purchaser that purchases tangible personal property from an out-of-state retailer or utility business if the retailer or utility business’s gross receipts from the sale have not already been included in the measure of Arizona transaction privilege tax. Because Arizona transaction privilege tax and Arizona use tax are complementary taxes, only one of the taxes is imposed on a given transaction.
- ~~C-B.~~ Arizona use tax generally applies to the use, storage, or consumption in this state of tangible personal property purchased from an out-of-state retailer or utility business.
- ~~D-C.~~ If a purchaser pays to an out-of-state retailer or utility business a tax of another state levied on the sale or use of tangible personal property that is subject to Arizona use tax, the purchaser may apply the amount of tax paid to the other state against the purchaser’s use tax liability.
- ~~E-D.~~ A purchaser that purchases tangible personal property exempt from tax because the property is purchased for resale in the ordinary course of business but subsequently uses or consumes the tangible personal property shall pay Arizona use tax.

**R15-5-2310. Payment of Use Tax by Purchaser**

- A. ~~The Use Tax tax~~ must be paid to:
  - 1. An out-of-state vendor holding a certificate of authority for the collection of ~~Use Tax~~ use tax, or
  - 2. The Arizona Department of Revenue, in cases where the vendor is not a marketplace facilitator or remote seller liable for transaction privilege tax under A.R.S. § 42-5044 or is not registered for the collection of the use tax.
- ~~B.~~ A one-time, nonrecurring payment of use tax may be remitted to the Department under a cover letter rather than on a standard report form.
- ~~B-C.~~ Arizona purchasers making recurring purchases from out of state may apply to the Department for a registration certificate and remit payment directly to the state on a monthly report form in lieu of making payment to the vendor.



~~C.D.~~ The purchaser will be relieved of his liability for the tax when payment is made directly to the out-of-state vendor registered and a receipt of the tax paid is obtained by him.

**R15-5-2350. Mail Order Retailers Repealed**

~~This rule is not a limitation on other provisions of Arizona Revised Statutes, Title 42, Chapter 8, Article 2. A mail order retailer's transactions are substantial and recurring if the following conditions are satisfied:~~

- ~~1. The sale of tangible personal property would be subject to transaction privilege taxation if the transaction would have occurred in this state, and~~
- ~~2. During any 12-month period:~~
  - ~~a. The retailer's total sales in this state exceed \$100,000.00; or~~
  - ~~b. Two or more mailings, aggregating 5,000 or more solicitations, are made to points in this state.~~

**NOTICE OF EXEMPT RULEMAKING  
TITLE 15. REVENUE  
CHAPTER 10. DEPARTMENT OF REVENUE  
GENERAL ADMINISTRATION**

[R19-208]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)**

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R15-10-301	Amend
R15-10-302	Amend
R15-10-501	Amend
R15-10-505	Amend
  
- 2. Citations to the agency's statutory rulemaking authority, including the authorizing state (general), the implementing statute (specific), and the statute or session law authorizing the exemption:**  
 Authorizing statute: A.R.S. §§ 42-1003(F), 42-1005(A)(1); Laws 2019, 1st Reg. Sess., Ch. 273, § 32.  
 Implementing statute: A.R.S. §§ 42-3004(1), 42-5009(C); Laws 2019, 1st Reg. Sess., Ch. 273, §§ 6, 32.  
 Statute or session law authorizing the exemption: Laws 2019, 1st Reg. Sess., Ch. 273, § 32.
  
- 3. Effective date of the rules and the agency's reason it selected the effective date:**  
 October 1, 2019  
  
 The effective date of the rules is October 1, 2019, which the Department has selected because it falls after the August 27, 2019, general effective date applicable to the underlying legislation and coincides with the start of the first filing period for affected taxpayers on October 1, 2019.
  
- 4. List of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**  
 None
  
- 5. Agency's contact person who can answer questions about the rulemaking:**  
 Name: Lisa Querard, Research and Policy Administrator  
 Address: Department of Revenue  
 1600 W. Monroe St., Mail Code 1300  
 Phoenix, AZ 85007  
  
 Telephone: (602) 716-6813  
 Fax: (602) 716-7996  
 Email: lquerard@azdor.gov  
 Web site: www.azdor.gov
  
- 6. Agency's justification and reason why rules should be made, amended, repealed, or renumbered, including an explanation about the rulemaking:**  
 This rulemaking amends existing rules and introduces new rules to accommodate the needs of remote sellers and marketplace facilitators who, beginning October 1, 2019, are required to become licensed with the Department and report and remit Arizona transaction privilege taxes if they meet the dollar thresholds in retail sales to Arizona consumers that are established by Laws 2019, 1st Reg. Sess., Ch. 273 (hereafter referred to in its entirety as "HB 2757"). Additionally, it repeals or updates outmoded, redundant, or potentially confusing language that diminishes the utility of rules that are applicable to remote sellers, marketplace facilitators, and other taxpayers.  
  
 Before the enactment of HB 2757, liability for state and local privilege taxes (collectively referred to as "TPT" in this Notice) was based on a taxpayer's physical presence in Arizona, rather than the level of gross sales with Arizona consumers. Consequently, in addition to introducing new provisions addressing the criteria for transaction privilege tax liability, liability relief provisions for remote sellers and marketplace facilitators and filing methodology, the Department reviewed its existing rules on retail sales and reporting and filing requirements and amended or repealed language to accurately reflect its current position vis-à-vis all taxpayers, including remote sellers and marketplace facilitators.  
  
 The Department received approval to engage in this rulemaking action as an exception to Executive Order 2019-01, 25 A.A.R. 131 (Jan. 9, 2019) on September 16, 2019. Aside from stylistic, grammatical, or technical corrections intended to be nonsubstantive in



nature, the following summary provides a rule-by-rule description of changes from the rules as they had existed before this rulemaking action:

R15-10-301 (Definitions). The rule is amended to add cross-references to the statutory definitions of “marketplace facilitator” and “remote seller.”

R15-10-302 (General Requirements). The rule is amended to require marketplace facilitators and remote sellers who meet or reasonably can expect to meet the threshold requirements in A.R.S. § 42-5044 on or after October 1, 2019 to make TPT payments through electronic funds transfer unless the Department grants them a waiver based on one of the conditions listed in A.R.S. § 42-1129.

R15-10-501 (Definitions). The rule is amended to add cross-references to the statutory definitions of “marketplace facilitator” and “remote seller.” Definitions have been conformed to rulemaking guidelines, eliminating potentially confusing inconsistencies in capitalization usage and internal cross-references.

R15-10-505 (Electronic Signatures for Transaction Privilege and Use Tax). The rule is amended to require marketplace facilitators and remote sellers who meet or reasonably can expect to meet the threshold requirements in A.R.S. § 42-5044 on or after October 1, 2019 to file returns electronically unless, pursuant to A.R.S. § 42-5014, the Department either grants them a waiver or instructs them to file by paper. Additionally, the rule is amended to conform to rulemaking guidelines, eliminating potentially confusing inconsistencies in capitalization usage and internal cross-references.

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

None

**8. 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. Summary of the economic, small business, and consumer impact, if applicable:**

Laws 2019, 1st Reg. Sess., Ch. 273, § 32 authorizes an exemption from the rulemaking requirements of A.R.S. Tit. 41, Ch. 6 for one year after August 27, 2019 effective date. Consequently, this rulemaking is exempt from the requirements of the Arizona Administrative Procedure Act and no economic, small business, and consumer impact statement is required.

**10. Description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking, if applicable:**

Not applicable

**11. Agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

Despite the exemption granted to HB 2757’s rulemaking, the Department posted a draft version of the rules included in this rulemaking for public review and feedback. The Department received no substantive comments for these rules during this period.

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

None

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

No

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

No

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

No

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

None

**14. Whether the rules were previously made, amended, or repealed as emergency rules (if so, state where the text changed between the emergency and final rulemaking packages):**

No

**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

**ARTICLE 5. ELECTRONIC FILING PROGRAM**

Section

R15-10-501. Definitions

R15-10-505. Electronic Signatures for Transaction Privilege and Use Tax

**ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS****R15-10-301. Definitions**

The following definitions apply for purposes of In 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 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.
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.
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.
9. "Department" means the Arizona Department of Revenue.
10. "EFT Program" means the payment of taxes by electronic funds transfer as specified by this Article.
11. "Electronic Funds Transfer" or "EFT" 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.
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.
13. "Marketplace facilitator" has the same meaning as prescribed in A.R.S. § 42-5001.
- ~~13-14.~~ "Payment information" means the data that the Department requires of a payor making an electronic funds transfer payment.
- ~~14-15.~~ "Payor" means a taxpayer or payroll service.
- ~~15-16.~~ "Payroll service" means a third party, under contract with a taxpayer to provide tax payment services on behalf of the taxpayer.
17. "Remote seller" has the same meaning as prescribed in A.R.S. § 42-5001.
- ~~16-18.~~ "State Servicing Bank" means a bank designated under A.R.S. Title 35, Chapter 2, Article 2.
- ~~17-19.~~ "Tax type" means a tax that is subject to electronic funds transfer, each of which shall be considered a separate category of payment.
- ~~18-20.~~ "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, 1997, corporations ~~which that~~ 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.
- 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.
- 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.
- F. Unless otherwise waived pursuant to A.R.S. § 42-1129, for tax periods beginning on or after the following tax years, any taxpayer, other than an individual income taxpayer, that had a tax liability equal to or more than the following amounts during the prior tax year or that can reasonably anticipate tax liability in the current tax year exceeding the following amounts, shall remit tax payments to the Department by an authorized means of transmission. For periods on or after:
  1. January 1, 2018, prior tax year or expected current year tax liability of \$20,000;
  2. January 1, 2019, prior tax year or expected current year tax liability of \$10,000;
  3. January 1, 2020, prior tax year or expected current year tax liability of \$5,000;
  4. January 1, 2021, prior tax year or expected current year tax liability of \$500.
- G. For tax periods beginning on and after October 1, 2019, marketplace facilitators and remote sellers who, at the time of registering for a transaction privilege tax license, can reasonably anticipate their tax liability will exceed the thresholds detailed in subsection (F)



above are required to remit any applicable taxes to the Department by an authorized means of transmission, unless granted a waiver pursuant to A.R.S. § 42-1129.

ARTICLE 5. ELECTRONIC FILING PROGRAM

R15-10-501. Definitions

In addition to the definitions provided in A.R.S. §§ 42-1101.01, 42-1103.01, 42-1103.02, 42-1103.03, and 42-1105.02, unless the context provides otherwise, the following definitions apply to this Article and to A.R.S. Title 42, Chapter 2:

- 1. "AZTaxes.gov" means the Department's taxpayer service center web site that provides taxpayers with the ability to conduct transactions and review tax account information over the internet.
2. "Authorized user" means an individual, primary user, or delegate user, including a return preparer or electronic return preparer as defined in A.R.S. § 42-1101.01, who has been granted authority by the taxpayer, an owner of the taxpayer or an authorized officer of the taxpayer to access taxpayer information available on the AZTaxes.gov web site.
3. "Bulk Transmitter" is an Electronic Return Transmitter electronic return transmitter that submits multiple electronic returns, statements or other documents to the Department for filing or processing at one time.
4. "Delegate User user" means any a registered customer of the AZTaxes.gov web site, other than a primary user, who is authorized by a taxpayer, an owner of the taxpayer or an authorized officer of the taxpayer to access the taxpayer's account information on AZTaxes.gov. A Delegate User that user who uses a PIN to sign and file transaction privilege or use tax returns on behalf of a taxpayer shall be presumed to be authorized by that taxpayer to take such action on behalf of the taxpayer.
5. "Department" means the Arizona Department of Revenue.
6. "Electronic return preparer" has the same meaning as prescribed in A.R.S. § 42-1101.01.
7. "Electronic return, statement or other document" means all data entered into a return, statement, or other document that is prepared using computer software and transmitted electronically to the Department.
8. "Electronic return transmitter" includes a person who is part of the chain of transmission of an electronic return, statement, or other document from the taxpayer or from an electronic return preparer to the Department even though the person did not receive the transmitted return, statement, or other document directly from the taxpayer or electronic return preparer.
9. "Electronic signature" means the electronic method or process as defined in A.R.S. § 41-132 has the same meaning as prescribed in A.R.S. § 18-106.
10. "License" means one or more transaction privilege, use, or withholding tax licenses or registrations obtained from the Department by completing and submitting a mail-in Arizona Joint Tax Application paper application or by completing the online AZTaxes.gov business registration process and, where applicable, submitting an executed AZTaxes.gov Registration Signature Card.
11. "Marketplace facilitator" has the same meaning as prescribed in A.R.S. § 42-5001.
12. "PIN" means a Self Select Personal Identification Number user-created personal identification number made up of a prescribed number of characters and used as an electronic signature to sign returns, statements or other documents submitted to the Department through AZTaxes.gov; or by any other electronic means.
13. "Primary User user" means the taxpayer, an owner of the taxpayer or any authorized officer of the taxpayer who registers to use AZTaxes.gov. A Primary User primary user has the unlimited ability to access the taxpayer's online accounts, conduct online transactions for the taxpayer, designate Delegate Users delegate users, specify the level of access granted to a Delegate User delegate user and modify or terminate the access of any Delegate User delegate user.
14. "Registered customer" means any individual that who has, by means of providing specific information requested by the Department through its the AZTaxes.gov web site registration process, obtained selected a username and password entitling that taxpayer individual to conduct transactions and access information through the AZTaxes.gov web site.
15. "Remote seller" has the same meaning as prescribed in A.R.S. § 42-5001.
16. "Return preparer" has the same meaning as prescribed in A.R.S. § 42-1101.01.

R15-10-505. Electronic Signatures for Transaction Privilege and Use Tax

- A. As a registrant for AZTaxes.gov, a taxpayer, primary user or delegate user shall do the following to become a registered customer of the AZTaxes.gov web site for transaction privilege and use tax purposes:
1. Provide his the registrant's legal name and e-mail address,
a.2. Create a unique username and password which shall be used to gain entitling the registrant access to AZTaxes.gov web site,
b.3. Select a prescribed number of security questions and submit their answers,
e.4. Create a PIN, and
d.5. Agree to the Department's Terms of Service.
2.B. By registering as becoming a registered customer of the AZTaxes.gov website or by and continuing to use the AZTaxes.gov website, the taxpayer, primary user or delegate user registrant declares that:
a.1. The information provided during the AZTaxes.gov registration process is accurate and complete, and
b.2. If a mail-in paper application was previously submitted, the information contained in the Arizona Joint Tax Application application is accurate and complete.
B.C. A taxpayer that has not obtained a transaction privilege or use tax license from the Department shall obtain a license by completing either the mail-in Arizona Joint Tax Application paper application or the AZTaxes.gov online application. From and after January 9, 2016, a taxpayer, primary user or delegate user may use his the PIN created pursuant to subsection (A)(4) to electronically sign the taxpayer's online Arizona Joint Tax application.
C.D. A Delegate User delegate user shall do the following to become associated with a taxpayer on the AZTaxes.gov web site:
1. Provide answers to prescribed questions about the taxpayer if the taxpayer has a license, or
2. Complete the online or mail-in Joint Tax Application paper application and provide answers to prescribed questions about the taxpayer.



- ~~D.E.~~ If filing a taxpayer's transaction privilege or use tax return by electronic means, an ~~Authorized User~~ authorized user of the ~~AZTaxes.gov web site~~ shall, from and after July 5, 2016, use ~~his~~ the authorized user's PIN to electronically sign a taxpayer's electronic transaction privilege, ~~tax~~ or use tax returns. By using ~~his~~ the PIN, the ~~Authorized User is making a declaration;~~ authorized user declares under penalties of perjury that the electronic return is, to the best of ~~his~~ the authorized user's knowledge and belief, true, correct, and complete.
- ~~E.E.~~ To file an electronic transaction privilege or use tax return under subsection (~~D~~) (E) above, a taxpayer, primary user, or delegate user preparing the electronic return may access ~~the AZTaxes.gov website or other website~~ and electronically file the return after signing the return with ~~his~~ the PIN created under subsection (A)(4).
- ~~F.G.~~ From and after July 5, 2016, unless otherwise required by Article 3 of this Title and Chapter, an ~~Authorized User of the AZTaxes.gov website~~ authorized user may pay its transaction privilege and use tax liability by electronic check.
- ~~G.H.~~ For tax periods beginning on or after the following years, any taxpayer ~~who that~~, under A.R.S. Title 42 Chapters 5 and 6, had total annual tax liability of at least the following amounts during the prior tax year or can reasonably anticipate that its current year tax liability will exceed the following amounts, shall, unless otherwise waived pursuant to A.R.S. § 42-5014, file the required return using an electronic filing program established by the Department. For periods on or after:
1. January 1, 2018, prior tax year or expected current year total tax liability of \$20,000;
  2. January 1, 2019, prior tax year or expected current year total tax liability of \$10,000;
  3. January 1, 2020, prior tax year or expected current year total tax liability of \$5,000;
  4. January 1, 2021, prior tax year or expected current year total tax liability of \$500.
- ~~I.~~ For tax periods beginning on and after October 1, 2019, marketplace facilitators and remote sellers who, at the time of registering for a transaction privilege tax license, can reasonably anticipate their tax liability will exceed the thresholds detailed in subsection (G) above shall, unless granted a waiver or if instructed to file by paper by the Department pursuant to A.R.S. § 42-5014, file the required return using an electronic program established by the Department.
- ~~H.J.~~ Any taxpayer ~~who that~~, under A.R.S. Title 42 Chapters 5 and 6, was required to file a return using an electronic filing program pursuant to subsection (~~G~~) (H) or (I) of this rule and that fails to do so after notice and demand by the Department shall, unless reasonable cause exists, be subject to the penalty imposed under A.R.S. § 42-1125(X) and (Y).

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## NOTICES OF RULEMAKING DOCKET OPENING

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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.

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### NOTICE OF RULEMAKING DOCKET OPENING ACUPUNCTURE BOARD OF EXAMINERS

[R19-209]

- 1. Title and its heading:** 4, Professions and Occupations  
**Chapter and its heading:** 8, Acupuncture Board of Examiners  
**Article and its heading:** 1, General Provisions  
2, Acupuncture Licensing; Visiting Professor Certificate  
3, Auricular Acupuncture Certification  
6, Complaints; Hearing Procedures; Discipline  
**Section numbers:** 7, Public Participation Procedures  
R4-8-101, R4-8-103, R4-8-105, Table 1, R4-8-106, R4-8-203,  
R4-8-204, R4-8-206, R4-8-207, R4-8-301, R4-8-303, R4-8-304,  
R4-8-601, R4-8-602, Article 7, R4-8-701, R4-8-702, R4-8-704,  
R4-8-706

- 2. The subject matter of the proposed rule:**  
The Board is updating its rules to address concerns raised by the Auditor General in a report dated September 14, 2016, and to address the Governor's request that agencies eliminate rules that are antiquated, redundant, or otherwise unnecessary. An exemption from Executive Order 2017-02 was provided for this rulemaking by Emily Rajakovich, Director of Boards and Commissions, in an e-mail dated January 12, 2018.

- 3. A citation to all published notices relating to the proceeding:**  
Notice of Proposed Rulemaking: 25 A.A.R. 2983, October 11, 2019 (*in this issue*)

- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: David Geriminsky  
Address: Acupuncture Board of Examiners  
1740 W. Adams, Ste 300,  
Phoenix, AZ 85007  
Telephone: (602) 364-0145  
Fax: (602) 926-8104  
E-mail: [director@acupuncture.az.gov](mailto:director@acupuncture.az.gov)  
Website: [acupunctureboard.az.gov](http://acupunctureboard.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 Agency will accept comments during business hours at the address listed in item 4. E-mail comments will be accepted. The agency does not intend to hold public hearings on this rule, unless a public hearing is requested within 30-days of the publication of this rule.

- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
To be determined



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**NOTICES OF PUBLIC INFORMATION**

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Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

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**NOTICE OF PUBLIC INFORMATION  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER QUALITY STANDARDS**

[M19-100]

- 1. Title and its heading:** 18, Environmental Quality
- Chapter and its heading:** 11, Department of Environmental Quality - Water Quality Standards
- 2. The public information relating to the above:**

The Administrative Rules Editor is publishing this Notice of Public Information to correct the effective date that was provided in a recent issue of the *Register* in a Department of Environmental Quality rulemaking notice. The Notice of Final Rulemaking that appeared in the October 4, 2019, Register (page 2515) stated that the rules were effective September 10, 2019; however, the correct effective date of the rules is November 9, 2019. The error was not due to information provided by the Department of Environmental Quality. The correct effective date will be provided in the historical note information upon publication in the appropriate edition of the *Arizona Administrative Code*.

Additional questions regarding this notice should be directed to the Administrative Rules Editor.
- 3. The name, address, and telephone number of agency personnel to whom questions and comments on the rules may be addressed:**

Name: Ben Bryce, Legal Specialist  
Address: Department of Environmental Quality  
1110 W. Washington St.  
150 N. 18th Ave., Suite 510  
Phoenix, AZ 85007  
Telephone: (602) 771-4689  
E-mail: WaterQualityStandards@azdeq.gov
- 4. The website where persons may obtain information about the rulemaking:**

<http://www.azdeq.gov/draft-and-proposed-rule-water-quality-division>  
<http://www.azdeq.gov/node/3934>



NOTICES OF SUBSTANTIVE POLICY STATEMENT

The Administrative Procedure Act (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(9)).

Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency's

internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

NOTICE OF SUBSTANTIVE POLICY STATEMENT
ACUPUNCTURE BOARD OF EXAMINERS

[M19-94]

1. Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:

Board's Interpretation of "Acupuncture" Definition in A.R.S. § 32-3901(1)

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

April 24, 2019

3. Summary of the contents of the substantive policy statement:

A.R.S. § 32-3924(2) requires every applicant for licensure to provide evidence that he or she has graduated from or completed training in a board-approved program of acupuncture with a minimum of one thousand eight-hundred fifty hours of training that includes at least eight hundred hours of board-approved clinical training. Board-approved programs of acupuncture spend a significant amount of time teaching students about the risks and complications associated with acupuncture and the removal of needles: specifically, preventing bruising and bleeding post needle removal and what to do with stuck, broken needles, or missed needles, as well as what to do in the event a medical emergency arises during or after treatment. In light of the possibility that unlicensed and unqualified individuals may be removing needles from patients at the direction and without the supervision of a licensed acupuncturist, the Board has decided to clarify that it views removal of needles as "stimulation" of a needle and a practice exclusively within the scope of practice of a licensed acupuncturist or individuals exempted from Board regulation pursuant to A.R.S. § 32-3921(B).

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.R.S. § 32-3901(1)

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a new Substantive Policy Statement

6. The agency contact person who can answer questions about the substantive policy statement:

Name: David Geriminsky, Executive Director
Address: Acupuncture Board of Examiners
1740 W. Adams
Phoenix, AZ 85007
Telephone: (602)364-0145
E-mail: info@acupuncture.az.gov
Website: www.acupunctureboard.az.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

The Substantive Policy Statement is available at no cost on the Board's website at: https://acupunctureboard.az.gov/statutes-rules/substantive-policy-statements. A copy may also be obtained upon request at the Board Office at no charge.



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**GOVERNOR EXECUTIVE ORDER**

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Executive Order 2019-01 is being reproduced in each issue of the *Administrative Register* as a notice to the public regarding state agencies' rulemaking activities.

This order has been reproduced in its entirety as submitted.

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**EXECUTIVE ORDER 2019-01****Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities**

[M19-04]

**WHEREAS**, government regulations should be as limited as possible; and

**WHEREAS**, burdensome regulations inhibit job growth and economic development; and

**WHEREAS**, protecting the public health, peace and safety of the residents of Arizona is a top priority of state government; and

**WHEREAS**, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order and renewed the moratorium in 2016, 2017 and 2018; and

**WHEREAS**, the State of Arizona eliminated or repealed 422 needless regulations in 2018 and 676 in 2017 for a total of 1,098 needless regulations eliminated or repealed over two years; and

**WHEREAS**, estimates show these eliminations saved job creators more than \$31 million in operating costs in 2018 and \$48 million in 2017 for a total of over \$79 million in savings over two years; and

**WHEREAS**, approximately 283,300 private sector jobs have been added to Arizona since January 2015; and

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

**WHEREAS**, each State agency shall continue to conduct 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 while protecting the health, peace and safety of residents; and

**WHEREAS**, each State agency should continue to evaluate its administrative rules using any available and reliable data and performance metrics; and

**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, 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 justifications 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 federal court 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 which are antiquated, redundant or otherwise no longer necessary for the operation of state government.
2. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
3. A State agency subject to this Order and which issues occupational or professional licenses shall review the agency's rules and practices related to receiving and acting on substantive complaints about unlicensed individuals who are allegedly holding them-



selves out as licensed professionals for financial gain and are knowingly or recklessly providing or attempting to provide regulated services which the State agency director believes could cause immediate and/or significant harm to either the financial or physical health of unknowing consumers within the state. Agencies shall identify and execute on opportunities to improve its complaint intake process, documentation, tracking, enforcement actions and coordination with proper law enforcement channels to ensure those allegedly trying to defraud unsuspecting consumers and putting them at risk for immediate and/or significant harm to their financial or physical health are stopped and effectively diverted by the State agency to the proper law-enforcement agency for review. A written plan on the agency’s process shall be submitted to the Governor’s Office no later than May 31, 2019.

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 section 41-1001, Arizona Revised Statutes.

**IN WITNESS THEREOF**, 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 ninth day of January in the Year Two Thousand and Nineteen and of the Independence of the United States of America the Two Hundred and Forty-Third.

**ATTEST:**  
**Katie Hobbs**  
**SECRETARY OF STATE**



## REGISTER INDEXES

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

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**

XN = Exempt new Section  
 XM = Exempt amended Section  
 XR = Exempt repealed Section  
 X# = Exempt renumbered Section

#### **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**

TN = Terminated proposed new Sections  
 TM = Terminated proposed amended Section  
 TR = Terminated proposed repealed Section  
 T# = Terminated proposed renumbered Section

### **RULE EXPIRATIONS**

EXP = Rules have expired

*See also “emergency expired” under emergency rulemaking*

### **CORRECTIONS**

C = Corrections to Published Rules

## 2019 Arizona Administrative Register Volume 25 Page Guide

Issue 1, Jan. 4, 2019.....1-87	Issue 2, Jan. 11, 2019.....88-116	Issue 3, Jan. 18, 2019.....117-140
Issue 4, Jan. 25, 2019.....141-172	Issue 5, Feb. 1, 2018.....173-284	Issue 6, Feb. 8, 2019.....285-344
Issue 7, Feb. 15, 2019.....345-396	Issue 8, Feb. 22, 2019.....397-426	Issue 9, March 1, 2019.....427-480
Issue 10, March 8, 2019.....481-544	Issue 11, March 15, 2019.....545-692	Issue 12, March 22, 2019.....693-740
Issue 13, March 29, 2019.....741-790	Issue 14, April 5, 2019.....791-866	Issue 15, April 12, 2019.....867-914
Issue 16, April 19, 2019.....915-988	Issue 17, April 26, 2019.....989-1128	Issue 18, May 3, 2019.....1129-1178
Issue 19, May 10, 2019.....1179-1212	Issue 20, May 17, 2019.....1213-1288	Issue 21, May 24, 2019.....1289-1324
Issue 22, May 31, 2019.....1325-1360	Issue 23, June 7, 2019.....1361-1406	Issue 24, June 14, 2019.....1407-1476
Issue 25, June 21, 2019.....1477-1578	Issue 26, June 28, 2019.....1579-1714	Issue 27, July 5, 2019.....1715-1776
Issue 28, July 12, 2019.....1777-1822	Issue 29, July 19, 2019.....1823-1880	Issue 30, July 26, 2019.....1881-1918
Issue 31, Aug. 2, 2019.....1919-2006	Issue 32, Aug. 9, 2019.....2007-2076	Issue 33, Aug. 16, 2019.....2077-2110
Issue 34, Aug. 23, 2019.....2111-2150	Issue 35, Aug. 30, 2019.....2151-2206	Issue 36, Sept. 6, 2019.....2207-2286
Issue 37, Sept. 13, 2019.....2287-2394	Issue 38, Sept. 20, 2019.....2395-2466	Issue 39, Sept. 27, 2019.....2467-2510
Issue 40, Oct. 4, 2019.....2511-2978		

### RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the *Register* issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

#### THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 40 OF VOLUME 25.

<p><b>Administration, Department of - Benefit Services Division</b></p> <p>R2-6-105.           SPM-1186;                                   TM-2265</p>	<p>R3-2-203.           FXM-2081</p> <p>R3-2-208.           PR-2291</p> <p>R3-2-301.           PM-2291</p> <p>R3-2-302.           PM-2291</p> <p>R3-2-401.           PM-2291</p> <p>R3-2-402.           PM-2291</p> <p>R3-2-403.           PN-2291</p> <p>R3-2-404.           PM-2291</p> <p>R3-2-405.           PM-2291</p> <p>R3-2-406.           PM-2291</p> <p>R3-2-407.           PM-2291</p> <p>R3-2-408.           PM-2291</p> <p>R3-2-409.           PM-2291</p> <p>R3-2-410.           PR-2291;                                   PN-2323</p> <p>R3-2-411.           PR-2291</p> <p>R3-2-412.           PR-2291</p> <p>R3-2-413.           PM-2291</p> <p>R3-2-501.           PM-2291</p> <p>R3-2-503.           PM-2291</p> <p>R3-2-504.           PM-2291</p> <p>R3-2-505.           PM-2291</p> <p>R3-2-601.           PR-2291</p> <p>R3-2-602.           PM-2291</p> <p>R3-2-603.           PR-2291</p> <p>R3-2-604.           PR-2291</p> <p>R3-2-605.           PM-2291</p> <p>R3-2-606.           PM-2291</p> <p>R3-2-607.           PM-2291</p> <p>R3-2-608.           PR-2291</p> <p>R3-2-609.           PM-2291</p> <p>R3-2-611.           PM-2291</p> <p>R3-2-612.           PM-2291</p> <p>R3-2-613.           PM-2291</p> <p>R3-2-614.           PM-2291</p>	<p>R3-2-615.           PM-2291</p> <p>R3-2-616.           PM-2291</p> <p>R3-2-617.           PM-2291</p> <p>R3-2-618.           PM-2291</p> <p>R3-2-620.           PM-2291</p> <p>R3-2-701.           FXM-2081;                                   PM-2291</p> <p>R3-2-702.           PM-2291</p> <p>R3-2-703.           PM-2291</p> <p>R3-2-708.           PM-2291</p> <p>R3-2-801.           PM-2291</p> <p>R3-2-803.           PM-2291</p> <p>R3-2-804.           PM-2291</p> <p>R3-2-805.           PM-2291</p> <p>R3-2-807.           PM-2291</p> <p>R3-2-808.           PM-2291</p> <p>R3-2-810.           FXM-2081</p> <p>R3-2-901.           PM-2291</p> <p>R3-2-902.           PM-2291</p> <p>R3-2-906.           PM-2291</p> <p>R3-2-907.           PM-2291</p> <p>R3-2-908.           PM-2291</p> <p><b>Agriculture, Department of - Citrus Fruit and Vegetable Division</b></p> <p>R3-10-101.           FXM-2089</p> <p>R3-10-102.           FXM-2089</p> <p><b>Agriculture, Department of - Environmental Services Division</b></p> <p>R3-3-702.           FXM-2084</p> <p><b>Agriculture, Department of - Office of Commodity Development and Promotion</b></p>
<p><b>Administration, Department of - Public Buildings Maintenance</b></p> <p>R2-11-301.           FM-2211</p> <p>R2-11-302.           FM-2211</p> <p>R2-11-303.           FM-2211</p> <p>R2-11-304.           FM-2211</p> <p>R2-11-305.           FM-2211</p> <p>R2-11-306.           FM-2211</p> <p>R2-11-307.           FM-2211</p> <p>R2-11-309.           FM-2211</p> <p>R2-11-310.           FM-2211</p> <p>R2-11-311.           FM-2211</p> <p>R2-11-312.           FN-2211</p> <p>R2-11-401.           FR-2211</p> <p>R2-11-402.           FR-2211</p> <p>R2-11-403.           FR-2211</p> <p>R2-11-404.           FR-2211</p> <p>R2-11-405.           FR-2211</p> <p>R2-11-406.           FR-2211</p> <p>R2-11-407.           FR-2211</p> <p>R2-11-408.           FR-2211</p> <p>R2-11-409.           FR-2211</p> <p>R2-11-501.           PN-1481;                                   FR-2211;                                   F#-2211</p> <p><b>Agriculture, Department of - Animal Services Division</b></p> <p>R3-2-101.           PM-2291</p> <p>R3-2-102.           PM-2291</p>		

R3-6-102.	FXM-2088	R4-17-203.	FM-401	R14-2-2613.	PN-355; SPN-2033
<b>Agriculture, Department of - Pest Management Division</b>		<b>Charter Schools, State Board for</b>		R14-2-2614.	PN-355; SPN-2033
R3-8-103.	FXM-720	R7-5-101.	FXM-1926	R14-2-2615.	PN-355; SPN-2033
<b>Agriculture, Department of - Plant Services Division</b>		R7-5-208.	FXM-1926	R14-2-2616.	PN-355; SPN-2033
R3-4-101.	PM-795	R7-5-301.	FXM-1926	R14-2-2617.	PN-355; SPN-2033
Table 1.	PM-795	R7-5-402.	FXM-1926	R14-2-2618.	PN-355; SPN-2033
R3-4-201.	PM-795	R7-5-501.	FXM-1926	R14-2-2619.	PN-355; SPN-2033
R3-4-202.	PM-795	R7-5-504.	FXM-1926	R14-2-2620.	PN-355; SPN-2033
R3-4-203.	PN-795	R7-5-506.	FXM-1926	R14-2-2621.	PN-355; SPN-2033
Table 2.	PN-795	R7-5-509.	FXM-1926	R14-2-2622.	PN-355; SPN-2033
Table 3.	PN-795	R7-5-602.	FXM-1926	R14-2-2623.	PN-355; SPN-2033
R3-4-204.	PM-795	<b>Child Safety, Department of - Permanency and Support Services</b>		R14-2-2624.	PN-355; SPN-2033
R3-4-218.	PM-795	R21-5-201.	EM-771; PM-2347; EM-2485	R14-2-2625.	PN-355; SPN-2033
R3-4-219.	PR-795	R21-5-205.	EM-771; PM-2347; EM-2485	R14-2-2626.	PN-355; SPN-2033
R3-4-220.	PM-795	<b>Clean Elections Commission, Citizens</b>		R14-2-2627.	PN-355; SPN-2033
R3-4-226.	PR-795	R2-20-104.	PM-1411; PM-2115; TM-2129	R14-2-2628.	PN-355; SPN-2033
R3-4-228.	PR-795	R2-20-113.	PM-1413; FM-2118	<b>Corporation Commission, Arizona - Transportation</b>	
R3-4-229.	PM-795	R2-20-702.	PM-1414; FM-2120	R14-5-201.	FM-151
R3-4-231.	PM-795	R2-20-704.	PM-1417; FM-2122	R14-5-202.	FM-151
R3-4-234.	PR-795	<b>Contractors, Registrar of</b>		R14-5-204.	FM-151
R3-4-238.	PR-795	R4-9-116.	EXP-373	<b>Dispensing Opticians, Board of</b>	
R3-4-239.	PM-795	R4-9-121.	EXP-373	R4-20-120.	PM-2326
R3-4-240.	PR-795	<b>Corporation Commission, Arizona - Fixed Utilities</b>		<b>Economic Security, Department of - Child Support Enforcement</b>	
R3-4-241.	PM-795	R14-2-211.	EM-1798	R6-7-103.	PM-1719
R3-4-242.	PR-795	R14-2-2601.	PN-355; SPN-2033	<b>Economic Security, Department of - Food Stamps Program</b>	
R3-4-244.	PR-795	R14-2-2602.	PN-355; SPN-2033	R6-14-301.	TN-413
R3-4-245.	PM-795	R14-2-2603.	PN-355; SPN-2033	R6-14-302.	TN-413
Table 4.	PN-795	R14-2-2604.	PN-355; SPN-2033	R6-14-303.	TN-413
Table 5.	PN-795	R14-2-2605.	PN-355; SPN-2033	R6-14-304.	TN-413
Table 6.	PN-795	R14-2-2606.	PN-355; SPN-2033	R6-14-305.	TN-413
R3-4-246.	PR-795	R14-2-2607.	PN-355; SPN-2033	R6-14-306.	TN-413
R3-4-248.	PM-795	R14-2-2608.	PN-355; SPN-2033	R6-14-307.	TN-413
R3-4-301.	FXM-2085	R14-2-2609.	PN-355; SPN-2033	R6-14-308.	TN-413
R3-4-501.	PM-795	R14-2-2610.	PN-355; SPN-2033	R6-14-309.	TN-413
R3-4-901.	PM-795	R14-2-2611.	PN-355; SPN-2033	R6-14-310.	TN-413
R3-4-1001.	XN-1447	R14-2-2612.	PN-355; SPN-2033	R6-14-311.	TN-413
R3-4-1002.	XN-1447	<b>Arizona Health Care Cost Containment System (AHCCCS) - Administration</b>		R6-14-401.	TN-413
R3-4-1003.	XN-1447	R9-22-303.	FM-1849	R6-14-402.	TN-413
R3-4-1004.	XN-1447	R9-22-712.35.	PM-1781	R6-14-403.	TN-413
R3-4-1005.	XN-1447	R9-22-712.61.	PM-1781; PM-1787	R6-14-404.	TN-413
Table 1.	XN-1447	R9-22-712.71.	PM-1781	R6-14-405.	TN-413
R3-4-1006.	XN-1447	R9-22-712.75.	PM-1787	R6-14-406.	TN-413
R3-4-1007.	XN-1447	R9-22-721.	PM-1790	R6-14-407.	TN-413
R3-4-1008.	XN-1447	R9-22-730.	FXM-1938	<b>Board of Physician Assistants, Arizona Regulatory</b>	
R3-4-1011.	XN-1447				
R3-4-1012.	XN-1447				
R3-4-1013.	XN-1447				
R3-4-1014.	XN-1447				

R6-14-408.	TN-413	R6-10-119.	P#-1365;	R18-2-1027.	FR-485
R6-14-409.	TN-413		PM-1365	R18-2-1028.	FR-485
R6-14-410.	TN-413	R6-10-120.	P#-1365;	R18-2-1031.	FR-485
R6-14-411.	TN-413		PM-1365	Table 5.	FM-485
R6-14-412.	TN-413	R6-10-121.	P#-1365;	R18-2-1201.	PM-8; FM-1433
R6-14-413.	TN-413		PN-1365	R18-2-1202.	PM-8; FM-1433
R6-14-414.	TN-413	R6-10-122.	PR-1365;	R18-2-1203.	PM-8; FM-1433
R6-14-415.	TN-413		P#-1365;	R18-2-1204.	PM-8; FM-1433
R6-14-416.	TN-413		PM-1365	R18-2-1205.	PM-8; FM-1433
R6-14-417.	TN-413	R6-10-123.	P#-1365;	R18-2-1206.	PM-8; FM-1433
R6-14-501.	TN-413		PM-1365	R18-2-1207.	PM-8; FM-1433
R6-14-502.	TN-413	R6-10-124.	P#-1365;	R18-2-1208.	P#-8; PN-8;
R6-14-503.	TN-413		PM-1365		F#-1433;
R6-14-504.	TN-413	R6-10-125.	P#-1365;		FN-1433
R6-14-505.	TN-413		PM-1365	R18-2-1209.	PN-8;
R6-14-506.	TN-413	R6-10-126.	PM-1365		FN-1433
R6-14-507.	TN-413	R6-10-301.	PM-1365	R18-2-1210.	P#-8;
		R6-10-302.	PM-1365		PM-8;
		R6-10-303.	PM-1365		F#-1433;
					FM-1433
<b>Economic Security, Department of - Social Services</b>		<b>Education, State Board of</b>		<b>Environmental Quality, Department of - Hazardous Waste Management</b>	
R6-5-3301.	FN-885	R7-2-201.	FXM-98	R18-8-101.	FM-435
R6-5-3302.	FN-885	R7-2-206.	FXM-98	R18-8-260.	FM-435
R6-5-3303.	FN-885	R7-2-303.	FXM-1550	R18-8-261.	FM-435
R6-5-3304.	FN-885	R7-2-319.	FXN-962	R18-8-262.	FM-435
R6-5-3305.	FN-885	R7-2-320.	FXN-962	R18-8-263.	FM-435
R6-5-3306.	FN-885	R7-2-604.03.	FXM-965	R18-8-264.	FM-435
R6-5-3307.	FN-885	R7-2-615.	FXM-1552	R18-8-265.	FM-435
		R7-2-1301.	FXM-967	R18-8-266.	FM-435
		R7-2-1302.	FXM-967	R18-8-268.	FM-435
		R7-2-1303.	FXM-967	R18-8-270.	FM-435
		R7-2-1304.	FXM-967	R18-8-271.	FM-435
		R7-2-1305.	FXM-967	R18-8-273.	FM-435
		R7-2-1306.	FXR-967	R18-8-280.	FM-435
		R7-2-1307.	FXM-967		
<b>Economic Security, Department of - The JOBS Program</b>		<b>Environmental Quality, Department of - Air Pollution Control</b>		<b>Environmental Quality, Department of - Underground Storage Tanks</b>	
R6-10-101.	PM-1365	R18-2-101.	PM-993;	R18-12-101.	PM-1485
R6-10-101.01.	PM-1365		SPM-2352	R18-12-102.	PM-1485
R6-10-102.	PM-1365	R18-2-220.	FM-888	R18-12-210.	PM-1485
R6-10-103.	P#-1365;	R18-2-301.	SPM-2352	R18-12-211.	PM-1485
	PN-1365	R18-2-302.01.	SPM-2352	R18-12-219.	PN-1485
R6-10-104.	P#-1365;	R18-2-304.	SPM-2352	R18-12-220.	PM-1485
	PM-1365	R18-2-334.	SPM-2352	R18-12-221.	PM-1485
R6-10-105.	P#-1365;	R18-2-406.	SPM-2352	R18-12-222.	PM-1485
	PM-1365	R18-2-1001.	FM-485	R18-12-223.	PM-1485
R6-10-106.	P#-1365;	R18-2-1002.	FN-485	R18-12-230.	PM-1485
	PM-1365	R18-2-1003.	FM-485	R18-12-231.	PM-1485
R6-10-107.	P#-1365;	R18-2-1005.	FM-485	R18-12-232.	PM-1485
	PN-1365	R18-2-1006.	FM-485	R18-12-233.	PM-1485
R6-10-108.	P#-1365;	R18-2-1007.	FM-485	R18-12-234.	PM-1485
	PM-1365	R18-2-1008.	FM-485	R18-12-235.	PN-1485
R6-10-109.	P#-1365;	R18-2-1009.	FM-485	R18-12-236.	PN-1485
	PM-1365	R18-2-1010.	FM-485	R18-12-237.	PN-1485
R6-10-110.	P#-1365;	R18-2-1011.	FM-485	R18-12-240.	PM-1485
	PM-1365	R18-2-1012.	FM-485	R18-12-241.	PM-1485
R6-10-111.	P#-1365;	R18-2-1013.	FR-485	R18-12-242.	PM-1485
	PM-1365	R18-2-1016.	FM-485	R18-12-243.	PM-1485
R6-10-112.	P#-1365;	R18-2-1017.	FM-485	R18-12-244.	PM-1485
	PM-1365	R18-2-1018.	FM-485	R18-12-245.	PM-1485
R6-10-113.	P#-1365;	R18-2-1019.	FM-485	R18-12-250.	PM-1485
	PM-1365	R18-2-1020.	FM-485	R18-12-251.	PM-1485
R6-10-114.	P#-1365;	R18-2-1023.	FM-485	R18-12-252.	PN-1485
	PM-1365	R18-2-1025.	FM-485	R18-12-260.	PM-1485
R6-10-115.	P#-1365;	R18-2-1026.	FM-485	R18-12-261.	PM-1485
	PM-1365				
R6-10-116.	P#-1365;				
	PM-1365				
R6-10-117.	P#-1365;				
	PM-1365				
R6-10-118.	P#-1365;				
	PM-1365				

R18-12-261.01.	PM-1485	R18-11-115.	PM-177;	R4-46-305.01.	FN-1139
R18-12-261.02.	PM-1485		FM-2515	R4-46-306.01.	FN-1139
R18-12-262.	PM-1485	R18-11-120.	PM-177;	R4-46-307.01.	FN-1139
R18-12-263.	PM-1485		FM-2515	R4-46-401.	FM-1139
R18-12-263.02.	PM-1485	R18-11-122.	PM-177;	R4-46-402.	FM-1139
R18-12-263.03.	PM-1485		FM-2515	R4-46-403.	FM-1139
R18-12-263.04.	PM-1485	Appendix A.	PM-177;	R4-46-404.	FM-1139
R18-12-264.	PM-1485		FM-2515	R4-46-405.	FM-1139
R18-12-264.01.	PM-1485	Table 1.	PM-177;	R4-46-406.	FM-1139
R18-12-270.	PM-1485		FM-2515	R4-46-407.	FM-1139
R18-12-271.	PM-1485	Table 2.	PM-177;	R4-46-408.	FM-1139
R18-12-272.	PM-1485		FM-2515	R4-46-501.	FM-1139
R18-12-274.	PM-1485	Table 3.	PM-177;	R4-46-503.	FM-1139
R18-12-280.	PM-1485		FM-2515	R4-46-504.	FM-1139
R18-12-281.	PM-1485	Table 4.	PM-177;	R4-46-505.	FM-1139
R18-12-300.	PM-1485		FM-2515	R4-46-506.	FM-1139
R18-12-301.	PM-1485	Table 5.	PM-177;	R4-46-508.	FM-1139
R18-12-305.	PM-1485		FM-2515	R4-46-509.	FM-1139
R18-12-306.	PM-1485	Table 6.	PM-177;	R4-46-510.	FM-1139
R18-12-307.	PM-1485		FM-2515	R4-46-511.	FM-1139
R18-12-308.	PM-1485	Table 11.	PR-177; PN-177;		
R18-12-309.	PM-1485		FR-2515;	<b>Game and Fish Commission</b>	
R18-12-310.	PM-1485		FN-2515	R12-4-101.	FM-1047
R18-12-311.	PR-1485	Table 12.	PR-177; PN-177;	R12-4-102.	PM-349;
R18-12-312.	PM-1485		FR-2515;		FM-1854
R18-12-313.	PM-1485		FN-2515	R12-4-106.	PM-349;
R18-12-314.	PM-1485	Table 13.	PN-177;		FM-1854
R18-12-315.	PM-1485		FN-2515	R12-4-204.	PN-349;
R18-12-316.	PM-1485	Table 14.	PN-177;		FM-1854
R18-12-317.	PM-1485		FN-2515	R12-4-216.	FM-1047
R18-12-318.	PM-1485	Table 15.	PN-177;	R12-4-301.	FM-1047
R18-12-319.	PM-1485		FN-2515	R12-4-302.	FM-1047
R18-12-320.	PM-1485	Table 16.	PN-177;	R12-4-303.	PM-875;
R18-12-322.	PM-1485		FN-2515		FM-1047;
R18-12-324.	PM-1485	Table 17.	PN-177;		FM-2473
R18-12-325.	PM-1485		FN-2515	R12-4-304.	FM-1047
R18-12-404.	PM-1485	Appendix B.	PM-177;	R12-4-305.	FM-1047
R18-12-405.	PM-1485		FM-2515	R12-4-306.	FM-1047
R18-12-408.	PM-1485	Appendix C.	PM-177;	R12-4-307.	FM-1047
R18-12-409.	PM-1485		FM-2515	R12-4-308.	FM-1047
R18-12-410.	PM-1485			R12-4-309.	FM-1047
R18-12-501.	PM-1485	<b>Financial Institutions, Department of - Real Estate Appraisal Division</b>		R12-4-310.	FM-1047
R18-12-801.	PM-1485			R12-4-311.	FM-1047
R18-12-804.	PM-1485	R4-46-101.	FM-1139	R12-4-313.	FM-1047
R18-12-805.	PM-1485	R4-46-103.	FR-1139	R12-4-314.	FN-1047
R18-12-806.	PM-1485	R4-46-106.	FM-1139	R12-4-315.	FR-1047
R18-12-808.	PM-1485	R4-46-107.	FM-1139	R12-4-316.	FR-1047
R18-12-809.	PM-1485	R4-46-201.	FM-1139	R12-4-317.	FR-1047
R18-12-951.	PN-1485	R4-46-201.01.	FM-1139	R12-4-318.	FM-1047
R18-12-952.	PN-1485	R4-46-202.	FR-1139	R12-4-319.	FM-1047
		R4-46-202.01.	FM-1139	R12-4-320.	FM-1047
<b>Environmental Quality, Department of - Water Pollution Control</b>		R4-46-203.	FM-1139	R12-4-321.	FM-1047
R18-9-101.	PEM-1293	R4-46-204.	FM-1139	R12-4-322.	FM-1047
R18-9-103.	PEM-1293	R4-46-205.	PR-1139	R12-4-401.	FM-1047
		R4-46-207.	PR-1139	R12-4-1001.	PN-124;
		R4-46-209.	FM-1139		FN-1860
<b>Environmental Quality, Department of - Water Quality Standards</b>		R4-46-301.	FM-1139	R12-4-1002.	PN-124;
R18-11-101.	PM-177;	R4-46-302.	FR-1139		FN-1860
	FM-2515	R4-46-303.	FR-1139	R12-4-1003.	PN-124;
R18-11-107.1.	PM-177;	R4-46-304.	FR-1139		FN-1860
	FM-2515	R4-46-305.	FR-1139	R12-4-1004.	PN-124;
R18-11-109.	PM-177;	R4-46-306.	FR-1139		FN-1860
	FM-2515	R4-46-301.01.	FN-1139	R12-4-1005.	PN-124;
R18-11-114.	PM-177;	R4-46-302.01.	FN-1139		FN-1860
	FM-2515	R4-46-303.01.	FN-1139		
		R4-46-304.01.	FN-1139	<b>Health Services, Department of - Communicable Diseases and Infes-</b>	

**tations**

R9-6-401. PM-2327  
 R9-6-403. PM-2327  
 R9-6-404. PM-2327  
 R9-6-405. PM-2327  
 R9-6-406. PM-2327  
 R9-6-407. PM-2327  
 R9-6-408. PM-2327  
 R9-6-409. PM-2327  
 R9-6-1201. FEM-255  
 R9-6-1202. FEM-255  
 R9-6-1203. FEM-255  
 R9-6-1204. FEM-255

**Health Services, Department of -  
Emergency Medical Services**

R9-25-201. FM-953  
 R9-25-202. FM-953  
 R9-25-203. FM-953  
 R9-25-204. FM-953  
 R9-25-205. FM-953  
 R9-25-206. FM-953  
 R9-25-207. FM-953

**Health Services, Department of -  
Food, Recreational, and Institu-  
tional Sanitation**

R9-8-102. PEM-675;  
 FEM-1547  
 R9-8-501. FN-748  
 R9-8-502. FN-748  
 R9-8-503. FN-748  
 Table 5.1. FN-748  
 Table 5.2. FN-748  
 R9-8-504. FN-748  
 R9-8-505. FN-748  
 R9-8-506. FN-748  
 R9-8-507. FN-748  
 R9-8-512. FR-748  
 R9-8-521. FR-748  
 R9-8-522. FR-748  
 R9-8-523. FR-748  
 R9-8-531. FR-748  
 R9-8-533. FR-748  
 R9-8-541. FR-748  
 R9-8-542. FR-748  
 R9-8-543. FR-748  
 R9-8-544. FR-748  
 R9-8-551. FR-748  
 R9-8-601. FN-756  
 R9-8-602. FN-756  
 R9-8-603. FN-756  
 Table 6.1. FN-756  
 Table 6.2. FN-756  
 R9-8-604. FN-756  
 R9-8-605. FN-756  
 R9-8-606. FN-756  
 R9-8-607. FN-756  
 R9-8-608. FN-756  
 R9-8-611. FR-756  
 R9-8-612. FR-756  
 R9-8-613. FR-756  
 R9-8-614. FR-756  
 R9-8-615. FR-756  
 R9-8-616. FR-756  
 R9-8-617. FR-756

R9-8-1301. FN-763  
 R9-8-1302. FN-763  
 R9-8-1303. FN-763  
 Table 13.1. FN-763  
 R9-8-1304. FN-763  
 R9-8-1305. FN-763  
 R9-8-1306. FN-763  
 R9-8-1307. FN-763  
 R9-8-1308. FN-763  
 R9-8-1312. FR-763  
 R9-8-1314. FR-763  
 R9-8-1321. FR-763  
 R9-8-1322. FR-763  
 R9-8-1331. FR-763  
 R9-8-1332. FR-763  
 R9-8-1333. FR-763  
 R9-8-1334. FR-763  
 R9-8-1335. FR-763  
 R9-8-1336. FR-763  
 R9-8-1337. FR-763  
 R9-8-1338. FR-763

**Health Services, Department of -  
Health Care Institutions: Licensing**

R9-10-101. PM-549;  
 XM-1222;  
 FM-1583;  
 PEM-2217  
 R9-10-102. PM-549;  
 XM-1222;  
 FM-1583  
 R9-10-104. PM-549;  
 FM-1583;  
 PM-2217  
 R9-10-104.01. PEN-2217  
 R9-10-105. PM-549;  
 FM-1583;  
 PEM-2217  
 R9-10-106. PM-549;  
 XM-1222;  
 FM-1583  
 R9-10-107. PR-549;  
 PN-549;  
 FR-1583;  
 FN-1583  
 R9-10-108. PM-549;  
 FM-1583  
 Table 1.1. PM-549;  
 FM-1583  
 R9-10-109. PM-549;  
 FM-1583  
 R9-10-110. PM-549;  
 FM-1583;  
 PEM-2217  
 R9-10-111. PM-549;  
 FM-1583  
 R9-10-112. PM-549;  
 FM-1583  
 R9-10-113. PM-549;  
 FM-1583  
 R9-10-114. PM-549;  
 FM-1583  
 R9-10-115. PM-549;  
 FM-1583  
 R9-10-116. PM-549;  
 FM-1583

R9-10-118. PM-549;  
 FM-1583  
 R9-10-119. PEM-1159;  
 FEM-1893  
 R9-10-201. PM-549;  
 FM-1583  
 R9-10-202. PM-549;  
 FM-1583  
 R9-10-203. PM-549;  
 FM-1583  
 R9-10-206. PM-549;  
 FM-1583  
 R9-10-207. PM-549;  
 FM-1583  
 R9-10-210. PM-549;  
 FM-1583  
 R9-10-215. PM-549;  
 FM-1583  
 R9-10-217. PM-549;  
 FM-1583;  
 PEM-2217  
 R9-10-219. PM-549;  
 FM-1583  
 R9-10-220. PM-549;  
 FM-1583  
 R9-10-224. PM-549;  
 FM-1583  
 R9-10-225. PM-549;  
 FM-1583  
 R9-10-226. PM-549;  
 FM-1583  
 R9-10-228. PEM-2217  
 R9-10-233. PM-549;  
 FM-1583  
 R9-10-234. PEM-2217  
 R9-10-302. PM-549;  
 FM-1583  
 R9-10-303. PM-549;  
 FM-1583  
 R9-10-306. PM-549;  
 FM-1583  
 R9-10-307. PM-549;  
 FM-1583  
 R9-10-308. PM-549;  
 FM-1583  
 R9-10-314. PM-549;  
 FM-1583  
 R9-10-315. PM-549;  
 FM-1583  
 R9-10-316. PM-549;  
 FM-1583  
 R9-10-321. PM-549;  
 FM-1583  
 R9-10-322. PEM-2217  
 R9-10-323. FEM-259  
 R9-10-324. PM-549;  
 FM-1583  
 R9-10-401. PM-549;  
 FM-1583  
 R9-10-402. PM-549;  
 FM-1583  
 R9-10-403. PM-549;  
 FM-1583  
 R9-10-408. PM-549;  
 FM-1583

R9-10-409.	PM-549; FM-1583	R9-10-702.	PM-549; FM-1583	R9-10-1002.	PM-549; FM-1583
R9-10-412.	PM-549; FM-1583	R9-10-703.	PM-549; FM-1583	R9-10-1003.	PM-549; FM-1583
R9-10-414.	PM-549; FM-1583	R9-10-706.	PM-549; FM-1583	R9-10-1013.	PM-549; FM-1583
R9-10-415.	PM-549; FM-1583	R9-10-707.	PM-549; FM-1583	R9-10-1014.	PM-549; FM-1583
R9-10-418.	PM-549; FM-1583	R9-10-708.	PM-549; FM-1583	R9-10-1017.	PM-549; FM-1583
R9-10-425.	PM-549; FM-1583	R9-10-711.	PM-549; FM-1583	R9-10-1018.	PM-549; FM-1583; PEM-2217
R9-10-426.	PEM-2217	R9-10-712.	PM-549; FM-1583	R9-10-1019.	PM-549; FM-1583; PEM-2217
R9-10-427.	PM-549; FM-1583	R9-10-713.	PM-549; FM-1583	R9-10-1025.	PM-549; FM-1583; PEM-2217
R9-10-501.	X#-1222; XN-1222	R9-10-714.	PM-549; FM-1583	R9-10-1029.	PEM-2217
R9-10-502.	X#-1222; XN-1222	R9-10-715.	PM-549; FM-1583	R9-10-1030.	FEM-259
R9-10-503.	X#-1222; XN-1222	R9-10-716.	PM-549; FM-1583	R9-10-1031.	PM-549; FM-1583
R9-10-504.	X#-1222; XN-1222	R9-10-717.	PM-549; FM-1583	R9-10-1102.	PM-549; FM-1583
R9-10-505.	X#-1222; XN-1222	R9-10-717.01.	PN-549; FN-1583	R9-10-1116.	FEM-259
R9-10-506.	X#-1222; XN-1222	R9-10-718.	PM-549; FM-1583	R9-10-1117.	PEM-2217
R9-10-507.	X#-1222; XN-1222	R9-10-719.	PM-549; FM-1583	R9-10-1203.	PEM-2185
R9-10-508.	X#-1222; XN-1222	R9-10-720.	PM-549; FM-1583; PEM-2217	R9-10-1206.	PEM-2185
R9-10-509.	X#-1222; XN-1222	R9-10-721.	FEM-259	R9-10-1315.	PEM-2217
R9-10-510.	X#-1222; XN-1222	R9-10-722.	FM-1583	R9-10-1316.	FEM-259
R9-10-511.	X#-1222; XN-1222	R9-10-801.	PM-549; FM-1583	R9-10-1317.	PEM-2217
R9-10-512.	X#-1222; XN-1222	R9-10-802.	PM-549; FM-1583	R9-10-1414.	PM-549; FM-1583
R9-10-513.	X#-1222; XN-1222	R9-10-803.	PM-549; FM-1583	R9-10-1415.	FEM-259
R9-10-514.	X#-1222; XN-1222	R9-10-806.	PM-549; FM-1583	R9-10-1416.	PEM-2217
R9-10-515.	X#-1222; XN-1222	R9-10-807.	PM-549; FM-1583	R9-10-1505.	PEM-1159; FEM-1893
R9-10-516.	X#-1222; XN-1222	R9-10-808.	PM-549; FM-1583	R9-10-1509.	PEM-1159; FEM-1893
R9-10-517.	FEM-259; X#-1222; XN-1222	R9-10-810.	PM-549; FM-1583	R9-10-1514.	PEM-2217
R9-10-518.	X#-1222; XN-1222; PEM-2217	R9-10-814.	PM-549; FM-1583	R9-10-1610.	FEM-259
R9-10-519.	XN-1222	R9-10-815.	PM-549; FM-1583; PEM-2217	R9-10-1712.	FEM-259
R9-10-520.	XN-1222	R9-10-817.	PM-549; FM-1583	R9-10-1810.	FEM-259
R9-10-521.	XN-1222	R9-10-818.	PM-549; FM-1583; PEM-2217	R9-10-1901.	PR-549; FR-1583
R9-10-522.	XN-1222	R9-10-819.	FEM-259	R9-10-1902.	PM-549; FM-1583
R9-10-523.	XN-1222	R9-10-820.	PM-549; FM-1583;	R9-10-1910.	PEM-2217
R9-10-524.	XN-1222		PEM-2217	R9-10-2101.	X#-1222
R9-10-525.	XN-1222		FEM-259	R9-10-2102.	X#-1222; XM-1222
R9-10-602.	PM-549; FM-1583		PM-549; FM-1583;	R9-10-2103.	X#-1222
R9-10-607.	PM-549; FM-1583		PEM-2217	R9-10-2104.	X#-1222
R9-10-617.	FEM-259	R9-10-917.	FEM-259	R9-10-2105.	X#-1222
R9-10-618.	PEM-2217	R9-10-918.	PEM-2217	R9-10-2106.	X#-1222
				R9-10-2107.	X#-1222
				R9-10-2108.	X#-1222
				R9-10-2109.	X#-1222
				R9-10-2110.	X#-1222
				R9-10-2111.	X#-1222; XM-1222
				R9-10-2112.	X#-1222
				R9-10-2113.	X#-1222
				R9-10-2114.	X#-1222
				R9-10-2115.	X#-1222

R9-10-2116. X#-1222  
 R9-10-2117. X#-1222  
 R9-10-2118. X#-1222

**Health Services, Department of -  
 Health Programs Services**

R9-13-101. PM-697;  
 FM-1827  
 R9-13-102. PM-697;  
 FM-1827  
 Table 13.1. PN-697;  
 FN-1827  
 R9-13-103. PM-697;  
 FM-1827  
 R9-13-104. PM-697;  
 FM-1827  
 R9-13-105. PM-697;  
 FM-1827  
 R9-13-106. PN-697;  
 FN-1827  
 R9-13-107. PR-697; PN-697;  
 FR-1827;  
 FN-1827  
 R9-13-108. PR-697; PN-697;  
 FR-1827;  
 FN-1827  
 R9-13-109. PR-697; PN-697;  
 FR-1827;  
 FN-1827  
 R9-13-110. PN-697;  
 FN-1827  
 R9-13-111. PN-697;  
 FN-1827  
 R9-13-112. PN-697;  
 FN-1827  
 R9-13-113. PN-697;  
 FN-1827  
 R9-13-114. PN-697;  
 FN-1827  
 R9-13-115. PN-697;  
 FN-1827

**Health Services, Department of -  
 Medical Marijuana Program**

R9-17-101. XM-2421  
 R9-17-102. XM-2421  
 R9-17-103. XM-2421  
 R9-17-107. XM-2421  
 Table 1.1. XM-2421  
 R9-17-108. XM-2421  
 R9-17-109. XM-2421  
 R9-17-205. XM-2421  
 R9-17-308. XM-2421  
 R9-17-310. XM-2421  
 R9-17-316. XM-2421  
 R9-17-318. XM-2421  
 R9-17-322. XM-2421  
 R9-17-323. XM-2421  
 R9-17-401. XN-2421  
 R9-17-402. XN-2421  
 R9-17-403. XN-2421  
 R9-17-404. XN-2421  
 R9-17-405. XN-2421  
 R9-17-406. XN-2421  
 R9-17-407. XN-2421  
 R9-17-408. XN-2421

R9-17-409. XN-2421  
 R9-17-410. XN-2421  
 R9-17-411. XN-2421

**Health Services, Department of -  
 Noncommunicable Diseases**

R9-4-101. PM-2011  
 R9-4-201. PM-2011  
 R9-4-202. PM-2011  
 R9-4-301. PM-2011  
 R9-4-302. PM-2011  
 R9-4-401. PM-2011  
 R9-4-402. PM-2011  
 R9-4-403. PM-2011  
 R9-4-404. PM-2011  
 R9-4-405. PM-2011  
 R9-4-501. PM-2011  
 R9-4-502. PM-2011  
 R9-4-503. PM-2011  
 R9-4-504. PM-2011

**Health Services, Department of -  
 Occupational Licensing**

R9-16-601. PEN-1329;  
 FEN-2409  
 R9-16-602. PEN-1329;  
 FEN-2409  
 R9-16-603. PEN-1329;  
 FEN-2409  
 R9-16-604. PEN-1329;  
 FEN-2409  
 R9-16-605. PEN-1329;  
 FEN-2409  
 R9-16-606. PEN-1329;  
 FEN-2409  
 R9-16-607. PEN-1329;  
 FEN-2409  
 R9-16-608. PEN-1329;  
 FEN-2409  
 R9-16-609. PEN-1329;  
 FEN-2409  
 R9-16-610. PEN-1329;  
 FEN-2409  
 R9-16-611. PEN-1329;  
 FEN-2409  
 R9-16-612. PEN-1329;  
 FEN-2409  
 R9-16-613. PEN-1329;  
 FEN-2409  
 R9-16-614. PEN-1329;  
 FEN-2409  
 R9-16-615. PEN-1329;  
 FEN-2409  
 R9-16-616. PEN-1329;  
 FEN-2409  
 R9-16-617. PEN-1329;  
 FEN-2409  
 R9-16-618. PEN-1329;  
 FEN-2409  
 R9-16-619. PEN-1329;  
 FEN-2409  
 R9-16-620. PEN-1329;  
 FEN-2409  
 R9-16-621. PEN-1329;  
 FEN-2409

R9-16-622. PEN-1329;  
 FEN-2409  
 R9-16-623. PEN-1329;  
 FEN-2409  
 R9-16-624. PEN-1329;  
 FEN-2409

**Health Services, Department of -  
 Sober Living Homes**

R9-12-101. PN-289;  
 FN-1419  
 R9-12-102. PN-289;  
 FN-1419  
 R9-12-103. PN-289;  
 FN-1419  
 R9-12-104. PN-289;  
 FN-1419  
 R9-12-105. PN-289;  
 FN-1419  
 R9-12-106. PN-289;  
 FN-1419  
 R9-12-107. PN-289;  
 FN-1419  
 Table 1.1. PN-289;  
 FN-1419  
 R9-12-201. PN-289;  
 FN-1419  
 R9-12-202. PN-289;  
 FN-1419  
 R9-12-203. PN-289;  
 FN-1419  
 R9-12-204. PN-289;  
 FN-1419  
 R9-12-205. PN-289;  
 FN-1419  
 R9-12-206. PN-289;  
 FN-1419  
 R9-12-207. PN-289;  
 FN-1419

**Industrial Commission of Arizona**

R20-5-507. PM-878;  
 FM-2182;  
 PM-2345  
 R20-5-601. PM-2404  
 R20-5-602. PM-2404  
 R20-5-629. PM-2404  
 Appendix A. XN-2624

**Information Technology Agency,  
 Government**

R2-18-101. PM-93; FM-1133  
 R2-18-201. PM-93; FM-1133  
 R2-18-301. PM-93; FM-1133  
 R2-18-401. PM-93; FM-1133  
 R2-18-501. PN-93; FN-1133  
 R2-18-502. PN-93; FN-1133  
 R2-18-503. PN-93; FN-1133

**Insurance, Department of**

R20-6-401. PEM-1220  
 R20-6-1101. PM-880;  
 FM-1923  
 R20-6-2401. XN-155  
 R20-6-2402. XN-155  
 R20-6-2403. XN-155



R20-6-2404.	XN-155	R11-3-811.	FN-828	Table 1.	PM-871;
R20-6-2405.	XN-155	R11-3-812.	FN-828		FM-1793
R20-6-2406.	XN-155	R11-3-813.	FN-828	R4-22-201.	PM-871;
<b>Medical Board, Arizona</b>		R11-3-814.	FN-828		FM-1793
R4-16-101.	FM-145;	R11-3-815.	FN-828	R4-22-202.	PM-871;
	PM-2155	R11-3-816.	FN-828		FM-1793
R4-16-102.	FM-145	R11-3-817.	FN-828	R4-22-207.	PM-871;
R4-16-103.	FM-145	R11-3-818.	FN-828		FM-1793
R4-16-401.	FM-145	R11-3-819.	FN-828	<b>Pharmacy, Board of</b>	
R4-16-402.	FM-145	R11-3-820.	FN-828	R4-23-110.	SPM-19;
R4-16-501.	PM-2155	R11-3-821.	FN-828		FM-1015;
R4-16-502.	PM-2155	<b>Nursing, Board of</b>			PM-2159
R4-16-503.	PM-2155	R4-19-101.	FM-919	R4-23-202.	SPM-19;
R4-16-504.	PM-2155	R4-19-201.	FM-919		FM-1015
R4-16-505.	PM-2155	R4-19-202.	FR-919	R4-23-203.	SPM-19;
R4-16-506.	PM-2155	R4-19-203.	FM-919		FM-1015
R4-16-507.	PM-2155	R4-19-204.	FR-919	R4-23-204.	PM-2159
R4-16-508.	PM-2155	R4-19-205.	FM-919	R4-23-205.	PM-5; SPM-19;
R4-16-509.	PM-2155	R4-19-206.	FM-919		FM-1012;
R4-16-510.	PM-2155	R4-19-207.	FM-919		FM-1015
<b>Mine Inspector, State - Aggregate Mined Land Reclamation</b>		R4-19-209.	FM-919	R4-23-301.	SPM-19;
R11-3-101.	FN-828	R4-19-210.	FM-919		FM-1015
R11-3-102.	FN-828	R4-19-211.	FM-919	R4-23-302.	SPM-19;
R11-3-103.	FN-828	R4-19-212.	FR-919		FM-1015
R11-3-201.	FN-828	R4-19-213.	FM-919	R4-23-407.	SPM-19;
R11-3-202.	FN-828	R4-19-214.	FM-919		FM-1015;
R11-3-203.	FN-828	R4-19-215.	FM-919		PM-2159
R11-3-204.	FN-828	R4-19-216.	FM-919	R4-23-407.1.	SPM-19;
R11-3-205.	FN-828	R4-19-217.	FM-919		FM-1015
R11-3-206.	FN-828	R4-19-307.	FR-919	R4-23-411.	SPM-19;
R11-3-207.	FN-828	R4-19-309.	FM-919		FM-1015;
R11-3-208.	FN-828	R4-19-403.	FM-919		PM-2159
R11-3-209.	FN-828	R4-19-505.	FM-919	R4-23-601.	SPM-19;
R11-3-210.	FN-828	R4-19-506.	FM-919		FM-1015
R11-3-211.	FN-828	R4-19-507.	FM-919	R4-23-602.	SPM-19;
R11-3-212.	FN-828	R4-19-511.	FM-919		FM-1015
R11-3-301.	FN-828	R4-19-801.	FM-919	R4-23-603.	SPM-19;
R11-3-302.	FN-828	R4-19-802.	FM-919		FM-1015
R11-3-401.	FN-828	R4-19-809.	FM-919	R4-23-604.	SPM-19;
R11-3-402.	FN-828	R4-19-810.	FM-919		FM-1015
R11-3-501.	FN-828	R4-19-811.	FR-919	R4-23-605.	SPM-19;
R11-3-502.	FN-828	R4-19-815.	FM-919		FM-1015
R11-3-503.	FN-828	<b>Nursing Care Institution Administrators and Assisted Living Facility Managers, Board of Examiners for</b>		R4-23-606.	SPM-19;
R11-3-504.	FN-828	R4-33-202.	PM-2176		FM-1015
R11-3-505.	FN-828	R4-33-203.	PM-2176	R4-23-607.	SPM-19;
R11-3-601.	FN-828	R4-33-204.	PM-2176		FM-1015;
R11-3-602.	FN-828	R4-33-206.	PM-2176		PM-2159
R11-3-603.	FN-828	R4-33-401.	PM-2176	R4-23-676.	PN-5; SPN-19;
R11-3-701.	FN-828	R4-33-402.	PM-2176		FN-1015
R11-3-702.	FN-828	R4-33-403.	PM-2176	R4-23-677.	FN-1012
R11-3-703.	FN-828	R4-33-405.	PM-2176	R4-23-692.	SPM-19;
R11-3-704.	FN-828	<b>Optometry, Board of</b>			FM-1015
R11-3-705.	FN-828	R4-21-101.	FM-431	R4-23-693.	SPM-19;
R11-3-801.	FN-828	R4-21-209.	FM-431		FM-1015
R11-3-802.	FN-828	R4-21-210.	FM-431	R4-23-801.	PR-2159
R11-3-803.	FN-828	R4-21-211.	FM-431	R4-23-1102.	SPM-19;
R11-3-804.	FN-828	<b>Osteopathic Examiners in Medicine and Surgery, Board of</b>			FM-1015
R11-3-805.	FN-828	R4-22-102.	PM-871;	R4-23-1103.	SPM-19;
R11-3-806.	FN-828		FM-1793		FM-1015;
R11-3-807.	FN-828	<b>Physical Therapy, Board of</b>		R4-23-1105.	SPM-19;
R11-3-808.	FN-828				FM-1015
R11-3-809.	FN-828			R4-23-1106.	PM-2159
R11-3-810.	FN-828				



**Agency Ombudsman, Notices of**

First Things First, Early Childhood Development and Health Board; p. 385  
 Game and Fish Commission; p. 385  
 Public Safety, Department of; p. 854

**Docket Opening, Notices of Rulemaking**

Administration, Department of - Public Buildings Maintenance; 2 A.A.C. 11; p. 1560  
 Arizona Health Care Cost Containment System (AHCCCS) - Administration; 9 A.A.C. 22; pp. 1802-1803  
 Agriculture, Department of - Animal Services Division; 3 A.A.C. 2; pp. 2372-2373  
 Agriculture, Department of - Plant Services Division; 3 A.A.C. 4; p. 849  
 Child Safety, Department of - Permanency and Support Services; 21 A.A.C. 5; p. 2374  
 Clean Elections Commission, Citizens; 2 A.A.C. 20; pp. 1456-1457, 2130  
 Corporation Commission, Arizona - Fixed Utilities; 14 A.A.C. 2; pp. 376  
 Dispensing Opticians, Board of; 4 A.A.C. 20; p. 1163  
 Economic Security, Department of - Child Support Enforcement; 6 A.A.C. 7; pp. 1737-1738  
 Economic Security, Department of - Food Stamps Program; 6 A.A.C. 14; pp. 1739-1740  
 Economic Security, Department of - The JOBS Program; 6 A.A.C. 10; p. 1389  
 Environmental Quality, Department of - Administration; 18 A.A.C. 1; p. 2491  
 Environmental Quality, Department of - Air Pollution Control; 18 A.A.C. 2; pp. 51-52, 1113, 1163-1164  
 Environmental Quality, Department of - Permits and Compliance Fees; 18 A.A.C. 14; p. 2492  
 Environmental Quality, Department of - Water Pollution Control; 18 A.A.C. 9; pp. 1308, 2491  
 Environmental Quality, Department of - Water Quality Standards; 18 A.A.C. 11; p. 273  
 Facilities Board, School; 7 A.A.C. 6; p. 1740  
 Game and Fish Commission; 12 A.A.C. 4; pp. 128, 375-376, 894  
 Health Services, Department of - Child Care Facilities; 9 A.A.C. 5; p. 1561

Health Services, Department of - Communicable Diseases and Infestations; 9 A.A.C. 6; p. 1342  
 Health Services, Department of - Emergency Medical Services; 9 A.A.C. 25; p. 1271  
 Health Services, Department of - Food, Recreational, and Institutional Sanitation; 9 A.A.C. 8; pp. 374-375, 466, 724  
 Health Services, Department of - Health Care Institutions: Licensing; 9 A.A.C. 10; pp. 678, 1457, 2093, 2266  
 Health Services, Department of - Noncommunicable Diseases; 9 A.A.C. 4; p. 1341  
 Health Services, Department of - Occupational Licensing; 9 A.A.C. 16; pp. 1270, 2490  
 Health Services, Department of - Radiation Control; 9 A.A.C. 7; p. 2442  
 Industrial Commission of Arizona; 20 A.A.C. 5; pp. 895, 2373, 2443-2444  
 Information Technology Agency, Government; 2 A.A.C. 18; pp. 107-108  
 Insurance, Department of; 20 A.A.C. 6; pp. 161, 896  
 Medical Board, Arizona; 4 A.A.C. 16; p. 1898  
 Nursing Care Institution Administrators and Assisted Living Facility Managers, Board of Examiners for; p. 2093  
 Osteopathic Examiners in Medicine and Surgery, Board of; 4 A.A.C. 22; p. 723  
 Pharmacy, Board of; 4 A.A.C. 23; pp. 51, 2092  
 Podiatry, Board of; 4 A.A.C. 25; p. 465  
 Public Safety, Department of - Criminal Identification Section; 13 A.A.C. 1; p. 331  
 Public Safety, Department of - School Buses; 13 A.A.C. 13; p. 894  
 Retirement System Board, State; 2 A.A.C. 8; p. 1270  
 Revenue, Department of - General Administration; 15 A.A.C. 10; 1189  
 Secretary of State, Office of; 2 A.A.C. 12; p. 1189, 1737  
 Tax Deferred Annuity and Deferred Compensation Plans, Governing Committee for; 2 A.A.C. 9; p. 107  
 Transportation, Department of - Fuel Taxes; 17 A.A.C. 8; p. 2130  
 Transportation, Department of - Oversize and Overweight Special Permits; 17 A.A.C. 6; p. 680

Transportation, Department of - Title, Registration, and Driver Licenses; 17 A.A.C. 4; p. 679

**Governor's Office**

**Executive Order 2019-01:** pp. 131-132

**Governor's Regulatory Review Council**

Notices of Action Taken at Monthly Meetings: pp. 342, 424, 787-788, 984-986, 1358-1359, 1576-1577, 1916-1917, 2205-2206, 2464-2465

**Guidance Document, Notices of**

Health Services, Department of; pp. 109, 2054  
 Revenue, Department of; pp. 1191-1192

**Proposed Delegation Agreement, Notices of**

Environmental Quality, Department of; pp. 1741-1760, 2055  
 Health Services, Department of; p. 681

**Public Information, Notices of**

Accountancy, Board of; p. 468  
 Environmental Quality, Department of; pp. 57-63, 1942-1990  
 Environmental Quality, Department of - Water Pollution Control; pp. 162, 1114, 1459  
 Game and Fish Commission; pp. 53-57  
 Gaming, Department of - Racing Division - Boxing and Mixed Martial Arts Commission; p. 850  
 Health Services, Department of; p. 2058  
 Health Services, Department of - Health Care Institutions: Licensing; p. 2375  
 Health Services, Department of - Medical Marijuana Program; p. 2057  
 Technical Registration, Board of; p. 725

**Substantive Policy Statement, Notices of**

Accountancy, Board of; pp. 469, 1899  
 Acupuncture Board of Examiners; p. 2445  
 Agriculture, Department of - Plant Services of; pp. 2445-2446  
 Behavioral Health Examiners, Board of; pp. 1344, 2376  
 Contractors, Registrar of; p. 1197  
 Finance Authority, Water Infrastructure; pp. 380-383



- Gaming, Department of - Racing Division - Boxing and Mixed Martial Arts Commission; pp. 851-853
- Health Services, Department; pp. 1115, 1309
- Insurance, Department; pp. 532, 2446
- Lottery Commission, State; pp. 726, 2132
- Nursing, Board of; pp. 726, 2267
- Osteopathic Examiners in Medicine and Surgery; pp. 2267-2269
- Peace Officer Standards and Training Board, Arizona (AZPOST); p. 1805
- Psychologist Examiners, Board; p. 2269
- Podiatry Examiners, Board of; p. 1460
- Real Estate Department, State; pp. 129-130
- Revenue, Department of; pp. 1193-1196
- State Land Department, Arizona; pp. 378-380
- Technical Registration, Board of; p. 1273
- Water Resources, Department of; pp. 332, 378



## 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.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



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.

<b>Deadline Date (paper only) Friday, 5:00 p.m.</b>	<b>Register Publication Date</b>	<b>Oral Proceeding may be scheduled on or after</b>
April 12, 2019	May 3, 2019	June 3, 2019
April 19, 2019	May 10, 2019	June 10, 2019
April 26, 2019	May 17, 2019	June 17, 2019
May 3, 2019	May 24, 2019	June 24, 2019
May 10, 2019	May 31, 2019	July 1, 2019
May 17, 2019	June 7, 2019	July 8, 2019
May 24, 2019	June 14, 2019	July 15, 2019
May 31, 2019	June 21, 2019	July 22, 2019
June 7, 2019	June 28, 2019	July 29, 2019
June 14, 2019	July 5, 2019	August 5, 2019
June 21, 2019	July 12, 2019	August 12, 2019
June 28, 2019	July 19, 2019	August 19, 2019
July 5, 2019	July 26, 2019	August 26, 2019
July 12, 2019	August 2, 2019	September 3, 2019
July 19, 2019	August 9, 2019	September 9, 2019
July 26, 2019	August 16, 2019	September 16, 2019
August 2, 2019	August 23, 2019	September 23, 2019
August 9, 2019	August 30, 2019	September 30, 2019
August 16, 2019	September 6, 2019	October 7, 2019
August 23, 2019	September 13, 2019	October 15, 2019
August 30, 2019	September 20, 2019	October 21, 2019
September 6, 2019	September 27, 2019	October 28, 2019
September 13, 2019	October 4, 2019	November 4, 2019
September 20, 2019	October 11, 2019	November 12, 2019
September 27, 2019	October 18, 2019	November 18, 2019
October 4, 2019	October 25, 2019	November 25, 2019
October 11, 2019	November 1, 2019	December 2, 2019
October 18, 2019	November 8, 2019	December 9, 2019
October 25, 2019	November 15, 2019	December 16, 2019
November 1, 2019	November 22, 2019	December 23, 2019



### 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 <http://grrc.az.gov>.

#### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2019

[M19-05]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> January 22, 2019	<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> February 26, 2019	<i>Tuesday</i> March 5, 2019
<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> March 26, 2019	<i>Tuesday</i> April 2, 2019
<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> April 30, 2019	<i>Tuesday</i> May 7, 2019
<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> May 21, 2019	<b>Wednesday</b> May 29, 2019	<i>Tuesday</i> June 4, 2019
<i>Tuesday</i> May 21, 2019	<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> June 25, 2019	<i>Tuesday</i> July 2, 2019
<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> July 30, 2019	<i>Tuesday</i> August 6, 2019
<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> August 27, 2019	<b>Wednesday</b> September 4, 2019
<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> September 24, 2019	<i>Tuesday</i> October 1, 2019
<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> October 29, 2019	<i>Tuesday</i> November 5, 2019
<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> November 26, 2019	<i>Tuesday</i> December 3, 2019
<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 7, 2020	<i>Tuesday</i> January 14, 2020
<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 21, 2020	<i>Tuesday</i> January 28, 2020	<i>Tuesday</i> February 4, 2020

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