



Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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Information 398

Rulemaking Guide 399

RULES AND RULEMAKING

Proposed Rulemaking, Notices of

 9 A.A.C. 5 Department of Health Services - Child Care Facilities 401

 9 A.A.C. 8 Department of Health Services - Food, Recreational, and Institutional Sanitation 410

Proposed Expedited Rulemaking, Notices of

 9 A.A.C. 6 Department of Health Services - Communicable Diseases and Infestations 429

 9 A.A.C. 7 Department of Health Services - Radiation Control 431

OTHER AGENCY NOTICES

Ombudsman, Notices of Agency

 Early Childhood Development and Health Board/First Things First 456

GOVERNOR'S OFFICE

Governor's Executive Order 2020-02

 Moratorium on Rulemaking to Promote Job Creation and Economic Development; Implementation of Licensing Reform Policies 457

INDEXES

 Register Index Ledger 459

 Rulemaking Action, Cumulative Index for 2020 460

 Other Notices and Public Records, Cumulative Index for 2020 461

CALENDAR/DEADLINES

 Rules Effective Dates Calendar 463

 Register Publishing Deadlines 465

GOVERNOR'S REGULATORY REVIEW COUNCIL

 Governor's Regulatory Review Council Deadlines 466

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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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

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ADMINISTRATIVE REGISTER
This publication is available online for free at 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.

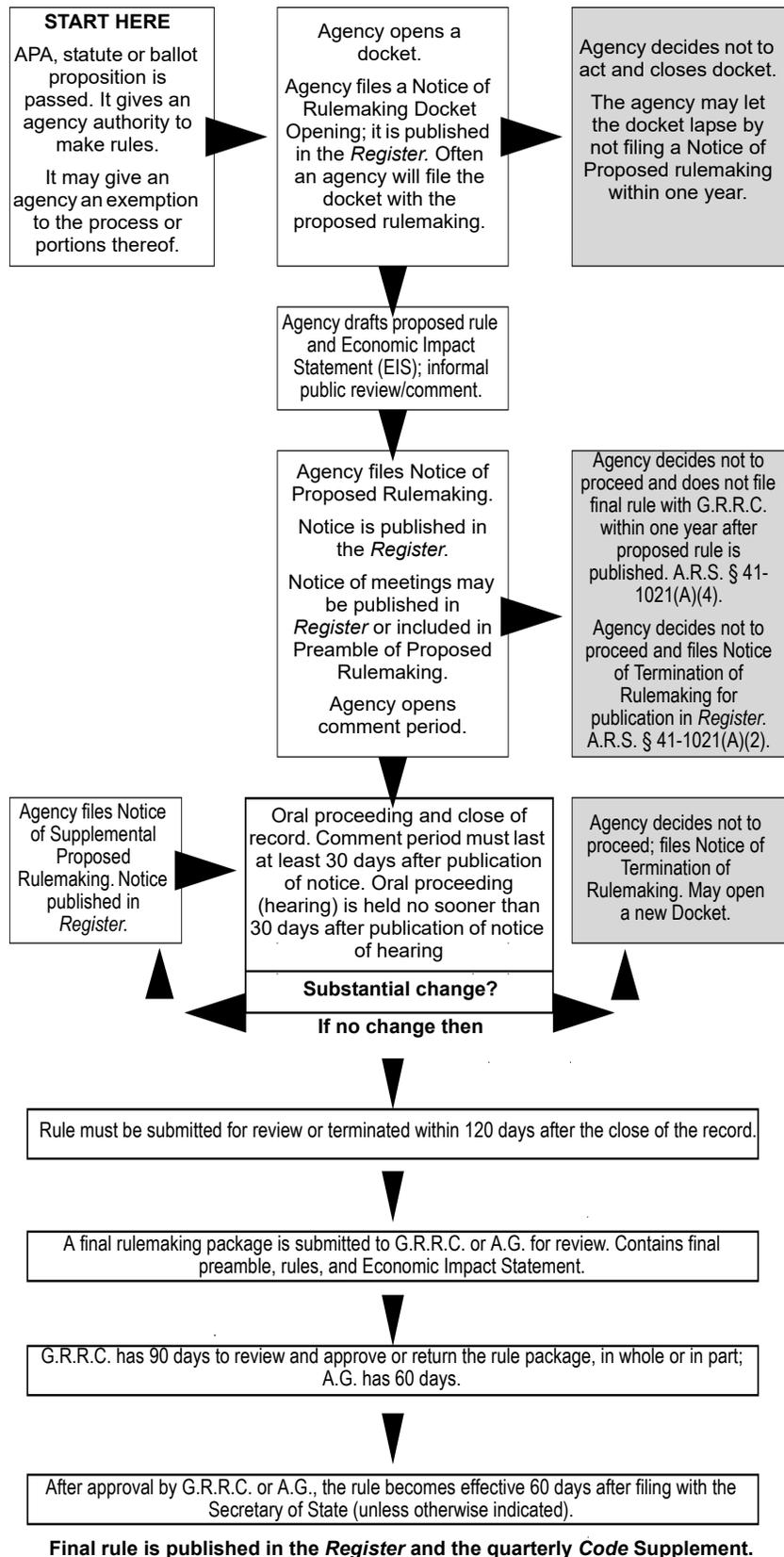
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

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.

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

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at 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.

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.

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 9. HEALTH SERVICES
CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES**

[R20-32]

PREAMBLE

- | | |
|---|---------------------------------|
| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R9-5-101 | Amend |
| R9-5-502 | Amend |
| R9-5-516 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statutes: A.R.S. §§ 36-132(A) and 36-136(G)
 Implementing statutes: A.R.S. §§ 36-882 through 36-894.01
- 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 expedited rule:**
 Notice of Rulemaking Docket Opening: 25 A.A.R. 1561, June 21, 2019
- 4. The agency's contact person who can answer questions about the rulemaking:**
- Name: Thomas Salow, Branch Chief
 Address: Department of Health Services
 Public Health Licensing Services
 150 N. 18th Ave., Suite 400
 Phoenix, AZ 85007-3248
- Telephone: (602) 364-1935
 Fax: (602) 334-3808
 E-mail: Thomas.Salow@azdhs.gov
- or
- Name: Stephanie Elzenga, Administrative Counsel
 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: Stephanie.Elzenga@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:**
 The Department licenses child care facilities under A.R.S. Title 36, Chapter 7.1, Article 1, and has adopted rules for child care facilities in 9 A.A.C. 5. A.R.S. § 15-341(A)(34) and (35) requires child care facilities located on a public school premises to allow school-aged children to possess emergency medications and self-administer auto-injectable epinephrine and handheld inhaler devices. A.R.S. § 36-2229(B) allows child care facilities, that are an authorized entity, to acquire, stock, and administer or provide an inhaler to an individual experiencing respiratory distress. The Department plans to amend A.A.C. R9-5-516 to address matters identified in A.R.S. §§ 15-341 and 36-2229. Additionally in 2018 and 2017, the Department completed complaint investigations



related to infant deaths at child care facilities. Because of these deaths, the Department plans to amend the policies and procedures requirements in A.A.C. R9-5-502 “for non-crawling infants” to clarify a staff member’s supervision of and interaction with a non-crawling infant. The Department believes amending the rules will eliminate confusion and ensure the health and safety for enrolled children attending a child care facility.

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:

As used in the 2020 Economic, Small Business, and Consumer Impact Statement for this rulemaking, the annual costs/revenues associated are designated as minimal when 1,000 or less, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000. A cost listed as significant when meaningful or important, but not readily subject to quantification.

The Department identifies affected persons as the Department, child care facilities, children enrolled in a child care facilities and their parents, and the public. The changes made to the rules include clarifying the supplemental standards for infants’ policies and procedures related to supervising non-crawling infants and “tummy time” as an infant activity; clarifying an exception in A.R.S. § 36-2229(D) that allows a facility to acquire, store, and administer or provide an inhaler to an individual experiencing respiratory distress; and adding a requirement that enrolled school-aged children may possess emergency medications and self-administer auto-injectable epinephrine and handheld inhaler devices according to A.R.S. § 15-341. The Department expects that the proposed changes will provide a significant benefit to the Department for having rules that will better protect the health and safety of infants and students enrolled in child care facilities. The Department expects that the cost for technical resources to amend the rules to be minimal to moderate. For child care facilities, the Department anticipates that child care facilities may incur a minimal cost for updating policies and procedures related to supervising non-crawling infants. The Department also expects that adding a requirement to allow school-aged children to possess emergency medications will not cause child care facilities to incur any additional cost and rather, provide a significant benefit for staff who will no longer be held responsible for a child not receiving medication when need the most. Lastly, the Department anticipates that children enrolled in a child care facilities and their parents should not incur any additional costs and rather should receive additional benefits from requirements that better clarify the needs of infant who receive tummy-time and the needs of other enrolled children who require inhalers and other emergency medications. Although, it is possible that parents, of an enrolled infant who requires tummy-time for ensuring proper physical development, could see an increase in child care fees if their child care facility chooses to add additional staff to care for those infants. However, the Department expects child care facilities will not hire additional staff. Overall, the Department believes that the benefits of having the amended rules outweigh any potential costs associated with the rulemaking.

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

Name: Thomas Salow, Branch Chief
Address: Department of Health Services
Public Health Licensing Services
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007-3248

Telephone: (602) 364-1935
Fax: (602) 334-3808
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or

Name: Stephanie Elzenga, Administrative Counsel
Address: Department of Health Services
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150 N. 18th Ave., Suite 200
Phoenix, AZ 85007

Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Stephanie.Elzenga@azdhs.gov

10. Where, when, and how persons may provide written comments on the proposed rule:

The Department has scheduled the following oral proceeding:

Date and time: Monday, April 13, 2020, at 2:00 p.m.
Location: 150 N. 18th Ave., Conference Room 295B
Phoenix, AZ 85007

Close of record: Monday, April 13, 2020, at 4:00 p.m.

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items 4 and 9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Stephanie



Elzenga at Stephanie.Elzenga@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

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:

There are no other matters prescribed by statutes applicable specifically to the Department or this specific rulemaking.

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 Department pursuant to A.R.S. § 36-882 is required to provide licensure for child care facilities and pursuant to A.R.S. § 36-888, the Department retains the authority to deny, revoke, or suspend an applicant or a child care facility licensee’s ability to operate. The Department does not use a general permit.

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

There are no federal rules applicable to the subject of the rule.

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:

None

13. The full text of the rules follows:

**TITLE 9. HEALTH SERVICES
CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES**

ARTICLE 1. GENERAL

Sections	
R9-5-101.	Definitions
R9-5-502.	Supplemental Standards for Infants
R9-5-516.	Medications

ARTICLE 1. GENERAL

R9-5-101. Definitions

In addition to the definitions in A.R.S. § 36-881, the following definitions apply in this Chapter unless otherwise specified:

1. “Abuse” has the same meaning as in A.R.S. § 8-201.
2. “Accident” means an unexpected occurrence that:
 - a. Causes injury to an enrolled child,
 - b. Requires attention from a staff member, and
 - c. May or may not be an emergency.
3. “Accommodation school” has the same meaning as in A.R.S. § 15-101.
4. “Accredited” means approved by the:
 - a. New England Commission of Institution of Higher Education,
 - b. Middle States Commission of Higher Education,
 - c. North Central the Higher Learning Commission,
 - d. Northwest Commission on Colleges and Universities,
 - e. Commission on Colleges, or
 - f. Western Association of Schools and Colleges.
5. “Activity” means an action planned by a licensee and performed by an enrolled child while supervised by a staff member.
6. “Activity area” means a specific indoor or outdoor space or room of a licensed facility that is designated by a licensee for use by an enrolled child for an activity.
7. “Adaptive device” means equipment used to augment an individual’s use of the individual’s arms, legs, sight, hearing, or other physical part or function.
8. “Administrative completeness review time-frame” has the same meaning as in A.R.S. § 41-1072.
9. “Adult” means an individual who is at least 18 years of age.
10. “Age-appropriate” means consistent with a child’s age and age-related stage of physical growth and mental development.
11. “Agency” means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
12. “Applicant” means a person or governmental agency requesting one of the following:
 - a. A license, or
 - b. Approval of a change affecting a license under R9-5-208.



13. "Application" means the documents that an applicant is required to submit to the Department for licensure or approval of a request for a change affecting a license.
14. "Assistant teacher-caregiver" means a staff member who aids a teacher-caregiver in planning, developing, or conducting child care activities.
15. "Association" means a group of individuals other than a corporation, limited liability company, partnership, joint venture, or public school who has established a governing board and bylaws to operate a facility.
16. "Beverage" means a liquid for drinking, including water.
17. "Business organization" has the same meaning as "entity" in A.R.S. § 10-140.
18. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
19. "Calendar week" means a seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.
20. "C.C.P." means Certified Childcare Professional, a credential awarded by the National Early Childhood Program Accreditation.
21. "C.D.A." means Child Development Associate, a credential awarded by the Council for Professional Recognition.
22. "Change in ownership" means a transfer of controlling legal or controlling equitable interest and authority in a facility resulting from a sale or merger of a facility.
23. "Charter school" has the same meaning as in A.R.S. § 15-101.
24. "Child care experience" means an individual's documented work with children in:
 - a. A child care facility or a child care group home that was licensed, certified, or approved by a state in the United States or by one of the Uniformed Services of the United States;
 - b. A public school, a charter school, a private school, or an accommodation school;
 - c. A public or private educational institution authorized under the laws of another state where instruction was provided for any grade or combination of grades between pre-kindergarten and grade 12; or
 - d. One of the following professional fields:
 - i. Nursing,
 - ii. Social work,
 - iii. Psychology,
 - iv. Child development, or
 - v. A closely-related field.
25. "Child care services" means the range of activities and programs provided by a licensee to an enrolled child, including personal care, supervision, education, guidance, and transportation.
26. "Child with special needs" means:
 - a. A child with a health care provider's diagnosis and record of a physical or mental condition that substantially limits the child in providing self-care or performing manual tasks or any other major life function such as walking, seeing, hearing, speaking, breathing, or learning;
 - b. A child with a "developmental disability" as defined in A.R.S. § 36-551; or
 - c. A "child with a disability" as defined in A.R.S. § 15-761.
27. "Clean" means to remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping.
28. "Closely-related field" means any educational instruction or occupational experience pertaining to the growth, development, physical or mental care, or education of children.
29. "Communicable disease" has the same meaning as in A.A.C. R9-6-101.
30. "Compensation" means money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit, that is received as payment.
31. "Corporal punishment" means any physical action used to discipline a child that inflicts pain to the body of the child, or that may result in physical injury to the child.
32. "CPR" means cardiopulmonary resuscitation.
33. "Credit hour" means an academic unit earned at an accredited college or university:
 - a. By attending a one-hour class session each calendar week during a semester or equivalent shorter course term, or
 - b. Completing practical work for a course as determined by the accredited college or university.
34. "Designated agent" means an individual who meets the requirements in A.R.S. § 36-889(D).
35. "Developmentally-appropriate" means consistent with a child's physical, emotional, social, cultural, and cognitive development, based on the child's age and family background and the child's personality, learning style, and pattern and timing of growth.
36. "Discipline" means the on-going process of helping a child develop self-control and assume responsibility for the child's own actions.
37. "Documentation" means information in written, photographic, electronic, or other permanent form.
38. "Electronic signature" has the same meaning as in A.R.S. § 41-351(9).
39. "Emergency" means a potentially life-threatening occurrence involving an enrolled child or staff member that requires an immediate response or medical treatment.
40. "Endanger" means to expose an individual to a situation where physical injury or mental injury to the individual may occur.
41. "Enrolled" means placed by a parent and accepted by a licensee for child care services.
42. "Evening and nighttime care" means child care services provided between the hours of 8:00 p.m. and 5:00 a.m.
43. "Facility" has the same meaning as "child care facility" in A.R.S. § 36-881.
44. "Facility director" means an individual who is designated by a licensee as the individual responsible for the daily onsite operation of a facility.
45. "Facility premises" means property that is:



- a. Designated on an application for a license by the applicant; and
 - b. Licensed for child care services by the Department under A.R.S. Title 36, Chapter 7.1, Article 1, and this Chapter.
46. “Fall zone” means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.
 47. “Field trip” means an activity planned by a staff member for an enrolled child:
 - a. At a location or area that is not licensed for child care services by the Department, or
 - b. At a child care facility in which the child is not enrolled.
 48. “Final construction drawings” means facility plans that include the architectural, structural, mechanical, electrical, fire protection, plumbing, and technical specifications of the physical plant and the facility premises and that have been approved by local government for the construction, alteration, or addition of a facility.
 49. “Food” means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
 50. “Food preparation” means processing food for human consumption by cooking or assembling the food, but does not include distributing prepackaged food or whole fruits or vegetables.
 51. “Full-day care” means child care services provided for six or more hours per day between the hours of 5:00 a.m. and 8:00 p.m.
 52. “Governmental agency” has the same meaning as in A.R.S. § 44-7002.
 53. “Guidance” means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
 54. “Hazard” means a source of endangerment.
 55. “Health care provider” means a physician, physician assistant, or registered nurse practitioner.
 56. “High school equivalency diploma” means:
 - a. A document issued by the State Board of Education under A.R.S. § 15-702 to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
 - b. A document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
 - c. A document issued by another country to an individual who has completed that country’s equivalent of a 12th grade education, as determined by the Department based upon information obtained from American or foreign consulates or embassies or other governmental agencies.
 57. “Hours of operation” means the specific time during a day for which a licensee is licensed to provide child care services.
 58. “Illness” means physical manifestation or signs of sickness, such as pain, vomiting, rash, fever, discharge, or diarrhea.
 59. “Immediate” or “immediately” means without restriction, delay, or hesitation.
 60. “Inaccessible” means:
 - a. Out of an enrolled child’s reach, or
 - b. Locked.
 61. “Infant” means:
 - a. A child 12 months of age or younger, or
 - b. A child 18 months of age or younger who is not yet walking.
 62. “Infant care” means child care services provided to an infant.
 63. “Infestation” means the presence of lice, pinworms, scabies, or other parasites.
 64. “Inspection” means:
 - a. Examination of a facility by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 1, and this Chapter;
 - b. Review of facility documents, records, or reports by the Department; or
 - c. Examination of a facility by a local governmental agency.
 65. “Lesson plan” means a written description of the activities scheduled in each activity area for a day.
 66. “License” means the written authorization issued by the Department to operate a facility in Arizona.
 67. “Licensed applicator” who complies with A.A.C. R3-8-201(C).
 68. “Licensed capacity” means the maximum number of enrolled children for whom a licensee is authorized by the Department to provide child care services in a facility or a part of a facility at any given time.
 69. “Licensee” means a person or governmental agency to whom the Department has issued a license to operate a facility in Arizona.
 70. “Local” means under the jurisdiction of a city or county in Arizona.
 71. “Mat” means a foam pad that has a waterproof cover and is of sufficient size and thickness to accommodate the height, width, and weight of a reclining child’s body.
 72. “Medication” means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or available without a prescription for the treatment or prevention of illness or infestation.
 73. “Menu” means:
 - a. A written description of the food that a facility provides and serves as a meal or snack, or
 - b. The combination of food that a facility provides and serves as a meal or snack.
 74. “Motor vehicle” has the same meaning as in A.R.S. § 28-101.
 75. “N.A.C.” means the National Administrator Credential, a credential issued by the National Institute of Child Care Management.
 76. “Name” means, for an individual, the individual’s first name and the individual’s last name.
 77. “Naptime” means any time during hours of operation, other than evening and nighttime hours, that is designated by a licensee for the rest or sleep of enrolled children.
 78. “Neglect” has the same meaning as in A.R.S. § 8-201.



- 79. “One-year-old” means a child who is not an infant and at least 12 months of age but not yet two years of age.
- 80. “Outbreak” has the same meaning as in A.A.C. R9-6-101.
- 81. “Overall time-frame” has the same meaning as in A.R.S. § 41-1072.
- 82. “Parent” means:
 - a. A natural or adoptive mother or father,
 - b. A legal guardian appointed by a court of competent jurisdiction, or
 - c. A “custodian” as defined in A.R.S. § 8-201.
- 83. “Part-day care” means child care services provided for fewer than six hours per day between the hours of 5:00 a.m. and 8:00 p.m.
- 84. “Perishable food” means food that becomes unfit for human consumption if not stored to prevent spoilage.
- 85. “Pesticide” has the same meaning as in A.R.S. § 32-3601.
- 86. “Pesticide label” means the written, printed, or graphic matter approved by the United States Environmental Protection Agency on, or attached to, a pesticide container.
- 87. “Physical injury” means temporary or permanent damage or impairment to a child’s body.
- 88. “Physical plant” means a building that houses a facility, or the licensed areas within a building that houses a facility, including the architectural, structural, mechanical, electrical, plumbing, and fire protection elements of the building.
- 89. “Physician” means an individual licensed as a doctor of:
 - a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
 - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17;
 - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
 - e. Allopathic, naturopathic, osteopathic, or homeopathic medicine under the law of another state.
- 90. “Physician assistant” means:
 - a. An individual who is licensed under A.R.S. Title 32, Chapter 25; or
 - b. An individual who is licensed as a physician assistant under the law of another state.
- 91. “Private pool” has the same meaning as “private residential swimming pool” in A.A.C. R18-5-201.
- 92. “Private school” has the same meaning as in A.R.S. § 15-101.
- 93. “Program” means a variety of activities organized and conducted by a staff member.
- 94. “Public pool” has the same meaning as “public swimming pool” in A.A.C. R18-5-201.
- 95. “Public school” has the same meaning as “school” in A.R.S. § 15-101.
- 96. “Registered nurse practitioner” means:
 - a. An individual who is licensed and certified as a “registered nurse practitioner” under A.R.S. § 32-1601, or
 - b. An individual who is licensed or certified as a registered nurse practitioner under the law of another state.
- 97. “Regular basis” means at recurring, fixed, or uniform intervals.
- 98. “Responsible party” means an individual or a group of individuals who:
 - a. Is assigned by a public school, charter school, or governmental agency; and
 - b. Has general oversight of the child care facility.
- 99. “Sanitize” means to use heat, chemical agents, or germicidal solutions to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
- 100. “School-age child” means a child who:
 - a. Meets one of the following:
 - i. Is five years old on or before January 1 of the current school year, or
 - ii. Is five years old on or before January 1 of the most recent school year; and
 - b. Meets one of the following:
 - i. Attends kindergarten or a higher level program in a public, charter, accommodation, or private school during the current school year;
 - ii. Attended kindergarten or a higher level program in a public, charter, accommodation, or private school during the most recent school year;
 - iii. Is home-schooled at a kindergarten or higher level during the current school year; or
 - iv. Was home-schooled at a kindergarten or higher level during the most recent school year.
- 101. “School-age child care” means child care services provided to a school-age child.
- 102. “School campus” means the contiguous grounds of a public, charter, accommodation, or private school, including the buildings, structures, and outdoor areas available for use by children attending the school.
- 103. “School governing board” has the same meaning as “governing board” in A.R.S. § 15-101.
- 104. “Screen time” means the use of electronic media to watch television or to watch a video, a DVD, or a movie at the facility or at another location or the use of electronic media or a computer for game-playing, entertainment, communication, or educational purposes.
- 105. “Semi-public pool” has the same meaning as “semipublic swimming pool” in A.A.C. R18-5-201.
- 106. “Service classification” means one of the following:
 - a. Full-day care;
 - b. Part-day care;
 - c. Evening and nighttime care;
 - d. Infant care;
 - e. One-year-old child care;
 - f. Two-year-old child care;
 - g. Three-year-old, four-year-old, and five-year-old child care;



- h. School-age child care; or
 - i. Weekend care.
107. "Signatory" means an individual who is authorized by a school district governing board, school district superintendent, or governmental agency to sign a document on behalf of the school district governing board, school district superintendent, or governmental agency.
108. "Signed" means affixed with an individual's signature or with a symbol representing an individual's signature if the individual is unable to write the individual's name.
109. "Sippy cup" means a lidded drinking container that is designed to be leak proof or leak-resistant and from which a child drinks through a spout or straw.
110. "Space utilization" means the designated use of an area within a facility for specific child care services or activities.
111. "Staff" or "staff member" means the same as "child care personnel" as defined in A.R.S. § 36-883.02.
112. "Student-aide" means an individual less than 16 years of age who is participating in an educational, curriculum-based course of study; vocational education; or occupational development program and who, without being compensated by a licensee, is present at a facility to receive instruction from and supervision by staff in the provision of child care services.
113. "Substantive review time-frame" has the same meaning as in A.R.S. § 41-1072.
114. "Supervision" means:
- a. For an enrolled child, knowledge of and accountability for the actions and whereabouts of the enrolled child, including the ability to see or hear the enrolled child at all times, to interact with the enrolled child, and to provide guidance to the enrolled child; or
 - b. For an individual other than an enrolled child, knowledge of and accountability for the actions and whereabouts of the individual, including the ability to see and hear the individual when the individual is in the presence of an enrolled child and the ability to intervene in the individual's actions to prevent harm to enrolled children.
115. "Swimming pool" has the same meaning as in A.A.C. R18-5-201.
116. "Teacher-caregiver" means a staff member responsible for developing, planning, and conducting child care activities.
117. "Teacher-caregiver-aide" means a staff member who provides child care services under the supervision of a teacher-caregiver.
118. "Training" means child care-related conferences, seminars, lectures, workshops, classes, courses, or instruction.
119. "Tummy time" means a limited period-of-time no more than 20 minutes used to allow a non-crawling infant:
- a. To strengthen the infant's head, neck, and upper body muscles; and
 - b. To increase the infant's sensory perception, visual and hearing acuity, and social and emotional interaction.
- ~~119-120.~~ "Volunteer" means a staff member who, without compensation, provides child care services that are the responsibility of a licensee.
- ~~120-121.~~ "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday, federal holiday, or a statewide furlough day.

ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT

R9-5-502. Supplemental Standards for Infants

- A. A licensee providing child care services for infants shall:
1. Provide a wall-enclosed room for infants that provides exits required by R9-5-601(1);
 2. Provide age-appropriate active and quiet activities for each infant;
 3. Provide age-appropriate indoor and outdoor activities for each infant;
 4. Permit an infant to maintain the infant's pattern of sleeping and waking;
 5. Develop, document, and implement tummy time policies and procedures that:
 - a. ~~provide~~ Provide an opportunity for a non-crawling infant to spend time experience tummy time each day on the infant's stomach while the infant is awake;
 - i. While the infant is awake, and
 - ii. On the infant's stomach;
 - b. Ensure a staff member who is supervising a non-crawling infant while the infant is flat on their stomach and on the floor:
 - i. Is within reach of the infant;
 - ii. Does not perform any other duties while supervising the infant;
 - iii. Does not allow the use of pillows, comforters, sheepskins, stuffed toys, or other soft products in the same floor space as the infant; and
 - iv. Does not allow any product specified in subsection (A)(5)(b)(iii) to be within reach of the infant;
 - c. Require continuous interaction between a non-crawling infant and the staff member who is supervising the non-crawling infant during tummy time;
 - d. Ensure, as an infant demonstrates ability and strength to control physical movement and greater sensory perception and social interaction, an assigned staff member provide a tummy-time period to:
 - i. A 2 - 3 month old infant of no more than 15 minutes;
 - ii. A 3 - 4 month old infant of no more than 20 minutes; and
 - iii. A 5 - 6 month old infant of 20 minutes; and
 - e. Ensure a non-crawling infant's tummy time period specified in subsection (A)(5)(d):
 - i. Is determined by the assigned staff member's assessment of the infant;
 - ii. Is gradually increased as the infant's ability, strength, and perception increases; and
 - iii. Does not exceed tummy time periods specified in subsection (5)(D)(i) through (iii).
 6. Provide an outdoor activity area or an indoor activity area for large muscle development substituted for an outdoor activity area that is used by infants when enrolled children older than infants are not present;
 7. Provide space, materials, and equipment in an infant room that includes the following:



- a. An area with nonabrasive flooring for sitting, crawling, and playing;
- b. Toys, materials, and equipment, that are too large for a child to swallow and free from sharp edges and points, in a quantity sufficient to meet the needs of the infants in attendance that include:
 - i. Toys to enhance physical development such as toys for stacking, pulling, and grasping;
 - ii. Soft toys;
 - iii. Books;
 - iv. Toys to enhance visual development such as crib mobiles and activity mats with an object or objects suspended above the infant’s head; and
 - v. Unbreakable mirrors; and
- c. At least one adult-size chair for use by a:
 - i. Staff member when holding or feeding an infant, or
 - ii. Nursing mother when breastfeeding her infant;
- 8. Provide a crib for each infant that:
 - a. Has bars or openings spaced no more than 2 3/8 inches apart and a crib mattress measured to fit not more than 1/2 inch from the crib side;
 - b. Has a commercially waterproofed mattress; and
 - c. Is furnished with clean, sanitized, crib-size bedding, including a fitted sheet and top sheet or a blanket;
- 9. Prohibit the use of stacked cribs;
- 10. Ensure that an occupied crib with a crib side that does not have a non-porous barrier is placed at least 2 feet from another occupied crib side that does not have a non-porous barrier; and
- 11. Label each food container received from the parent with the infant’s name.
- B.** A licensee providing child care services for infants shall not:
 - 1. Allow an infant room to be used as a passageway to another area of the facility;
 - 2. Permit an infant who is awake to remain for more than 30 consecutive minutes in a crib, swing, feeding chair, infant seat, or any equipment that confines movement;
 - 3. Permit an infant to use a walker; or
 - 4. Allow screen time in an infant room.
- C.** A licensee shall ensure that:
 - 1. A staff member providing child care services in an infant room:
 - a. Plays and talks with each infant;
 - b. Holds and rocks each infant;
 - c. Responds immediately to each infant’s distress signals;
 - d. Keeps dated, daily, documentation of each infant including:
 - i. A description of any activities the infant participated in,
 - ii. The infant’s food consumption, ~~and~~
 - iii. Diaper changes; and
 - iv. Tummy time;
 - e. Maintains the documentation in subsection (C)(1)(d) on facility premises for 12 months after the date on the documentation;
 - f. Provides a copy of the documentation in subsection (C)(1)(d) to the infant’s parent upon request;
 - g. Does not allow bumper pads, pillows, comforters, sheepskins, stuffed toys, or other soft products in a crib when an infant is in the crib;
 - h. Cleans and sanitizes each crib and mattress used by an infant when soiled;
 - i. Changes each crib sheet and blanket before use by another infant, when soiled, or at least once every 24 hours;
 - j. Cleans and sanitizes all sheets and blankets before use by another infant;
 - k. Places an infant to sleep on the infant’s back, unless the infant’s parent submits written instructions from the infant’s health care provider that states otherwise;
 - l. Obtains written, current, and dated dietary instructions from a parent or health care provider regarding the method of feeding and types of foods to be prepared or fed to an infant at the facility;
 - m. Posts the current written dietary instructions in the infant room and the kitchen and maintains the instructions on facility premises for 12 months after the date of the instructions; and
 - n. Follows the current written dietary instructions of a parent when feeding the infant;
 - 2. A staff member providing child care services in an infant room does not:
 - a. Place an infant directly on a waterproof mattress cover; or
 - b. Place an infant to sleep using a positioning device that restricts movement, unless the infant’s health care provider has instructed otherwise in writing;
 - 3. When preparing, using, or caring for an infant’s feeding bottles, a staff member:
 - a. Labels each bottle received from the parent with the infant’s name;
 - b. Ensures that a bottle is not:
 - i. Heated in a microwave oven;
 - ii. Propped for an infant feeding; or
 - iii. Permitted in an infant’s crib unless the written instructions required by subsection (C)(1)(l) state otherwise;
 - c. Empties and rinses bottles previously used by an infant; and
 - d. Cleans and sanitizes a bottle, bottle cover, and nipple before reuse; and
 - 4. When feeding an infant, a staff member:
 - a. Provides an infant with food for growth and development that includes:



- i. Formula provided by the infant's parent or the licensee or breast milk provided by the infant's parent, following written instructions required by subsection (C)(1)(I); and
- ii. Cereal as requested by the infant's parent or health care provider;
- b. If the staff member prepares an infant's formula, prepares the infant's formula in a sanitary manner;
- c. Stores formula and breast milk in a sanitary manner at the facility;
- d. Does not mix cereal with formula and feed it to an infant from a bottle or infant feeder unless the written instructions required by subsection (C)(1)(I) state otherwise;
- e. Except for finger food, feeds solid food to an infant by spoon from an individual container;
- f. Uses a separate container and spoon for each infant;
- g. Holds and feeds an infant under 6 months of age and an infant older than 6 months of age who cannot hold a bottle for feeding; and
- h. If an infant is no longer being held for feeding, seats the infant in a feeding chair or at a table with a chair that allows the infant to reach the food while sitting.

R9-5-516. Medications

- A.** A licensee shall ensure that a written statement is prepared and maintained on facility premises that specifies:
1. Whether prescription or nonprescription medications are administered to enrolled children; and
 2. If prescription or nonprescription medications are administered, the requirements in subsection (B) for administering the prescription or nonprescription medications.
- B.** If prescription or nonprescription medications are administered, a licensee shall ensure that:
1. A facility director, or a staff member designated in writing by the facility director, is responsible for the administration of all medications in the facility, including storing, supervising an enrolled child's ingestion of a medication, and documenting all medications administered to an enrolled child;
 2. A facility director ensures that only one staff member in the facility at any given time is responsible for the administration of medications;
 3. A facility director, or a staff member designated in writing by the facility director, does not administer a medication to an enrolled child unless the facility receives written authorization signed by the enrolled child's parent or health care provider that includes the:
 - a. Name of the enrolled child;
 - b. Type of the medication;
 - c. Prescription number, if any;
 - d. Instructions for administration specifying the:
 - i. Dosage and route of administration;
 - ii. If indicated, starting and ending dates of the dosage period; and
 - iii. Times and frequency of administration;
 - e. Reason for the medication; and
 - f. Date of authorization; and
 4. A staff member:
 - a. Administers a prescription medication provided by a parent only from a container dispensed by a pharmacy;
 - b. Administers a nonprescription medication provided by a parent for an enrolled child only from a container prepackaged and labeled for use by the manufacturer and labeled with the enrolled child's name;
 - c. Does not administer any medication that has been transferred from one container to another; and
 - d. Does not administer a nonprescription medication to an enrolled child inconsistent with the instructions on the nonprescription medication's label, unless the facility receives written authorization from the enrolled child's health care provider.
- C.** A licensee shall allow an enrolled child to receive an injection only after obtaining a written authorization from a health care provider.
- D.** A licensee shall maintain the health care provider's written authorization required in subsection (C) on facility premises for 12 months after the date of the written authorization.
- E.** An individual authorized by state law to give injections may give an injection to an enrolled child. In an emergency, an individual may give an injection to an enrolled child according to A.R.S. §§ 32-1421(A)(1) and 32-1631(2).
- F.** A licensee shall maintain documentation of all medications administered to an enrolled child.
1. Documentation shall contain:
 - a. The name of the enrolled child;
 - b. The name and amount of medication administered and the prescription number, if any;
 - c. The date and time the medication was administered; and
 - d. The signature of the staff member who administered the medication to the enrolled child; and
 2. A licensee shall maintain the documentation on facility premises for 12 months after the date the medication is administered.
- G.** A licensee shall return all unused prescription and nonprescription medications to a parent when the medication prescription date has expired or the medication is no longer being administered to the enrolled child or dispose of the medication if unable to locate the enrolled child's parent after the child's disenrollment.
- H.** Except as provided in subsection (J), a licensee shall ensure that prescription and nonprescription medications are stored as follows:
1. An enrolled child's medication is kept in a locked, leak-proof storage cabinet or container that is used only for storing enrolled children's medications and is located out of reach of children;
 2. Medication for a staff member is kept in a locked, leak-proof storage cabinet or container that is separate from the storage container for enrolled children's medications and is located out of reach of children; and
 3. Medications requiring refrigeration are kept in a locked, leak-proof container in a refrigerator.
- I.** Except as specified in A.R.S. § 36-2229(B) through (D), a licensee shall ensure that a facility does not stock a supply of medications for administration to enrolled children, including:



- 1. Any prescription medication; or
- 2. A nonprescription medication such as aspirin, acetaminophen, ibuprofen, or cough syrup.
- J.** A staff member's or enrolled child's prescription medication necessary to treat life-threatening symptoms:
 - 1. May be kept in the activity area where the staff member or enrolled child is present; and
 - 2. Except when the prescription medication is administered to treat life-threatening symptoms, is inaccessible to an enrolled child.
- K.** A licensee of a licensed child care facility owned and located on a public school premises shall ensure that enrolled school-aged children are allowed to possess emergency medications and self-administer auto-injectable epinephrine and handheld inhaler devices according to A.R.S. § 15-341, if an enrolled school-aged child:
 - 1. Has a written prescription from a physician.
 - 2. Is named on the prescription label, and
 - 3. Has written documentation from the enrolled school-aged child's parent approving the enrolled school-aged child to possess and self-administer emergency medication.

NOTICE OF PROPOSED RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION

[R20-33]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 1	Amend
R9-8-101	Repeal
R9-8-101	New Section
R9-8-102	Repeal
R9-8-102	New Section
R9-8-103	Repeal
R9-8-103	New Section
R9-8-104	Repeal
R9-8-104	New Section
Table 1	Repeal
R9-8-105	New Section
R9-8-105	Repeal
R9-8-106	New Section
R9-8-106	Repeal
R9-8-107	New Section
R9-8-108	Repeal
R9-8-108	New Section
Table 1.1	New Table
R9-8-109	Repealed
R9-8-110	New Section
R9-8-111	New Section
R9-8-112	New Section
R9-8-113	New Section
R9-8-114	New Section
R9-8-115	New Section
R9-8-116	New Section
R9-8-117	New Section
R9-8-118	New Section
R9-8-119	New Section
<u>2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u>	
Authorizing statutes: A.R.S. § 36-136(A)(7) and (G)	
Implementing statutes: A.R.S. §§ 36-136(I)(4), 36-136(I)(5), and 36-136(I)(7)	
<u>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 rule:</u>	
Notice of Rulemaking Docket Opening: 25 A.A.R. 724, March 22, 2019	
Notice of Rulemaking Docket Opening: 25 A.A.R. 374, February 15, 2019	
<u>4. The agency's contact person who can answer questions about the rulemaking:</u>	
Name: Eric Thomas, Chief	
Address: Department of Health Services	



Division of Public Health Services, Public Health Preparedness,
Office of Environmental Health
150 N. 18th Ave., Suite 140
Phoenix, AZ 85007-3248

Telephone: (602) 364-3142

Fax: (602) 364-3146

E-mail: Eric.Thomas@azdhs.gov

or

Name: Stephanie Elzenga

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: Stephanie.Elzenga@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:

9 A.A.C. 8, Article 1 rules prescribe reasonably necessary measures to ensure that all food or drink sold at the retail level are fit for human consumption. The Department of Health Services (Department) plans to amend the rules to make consistent with the current (2017) United States *Food and Drug Administration Food Code (FDA Food Code)*, address matters described in the rules recent five-year-review report, and improve the effectiveness of the rules. The Department received an exception from the rulemaking moratorium established by Executive Order 2019-01 on January 23, 2019 and plans to amend the rules through a regular rulemaking. Additionally, the Department plans to promulgate new rules to make consistent with new statutory law. Laws 2018, Ch. 286 requires the Department to adopt rules to establish statewide health and safety licensing standards for mobile food vendors and mobile food units. The rules will also include requirements for statewide inspection standards. The Department received an exception from the rulemaking moratorium established by Executive Order 2019-01 on March 5, 2019 and plans to draft new rules through a regular rulemaking. The amended and new rules will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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:

As used in the 2020 Economic, Small Business, and Consumer Impact Statement, annual cost/revenue associated with this rulemaking are designated as minimal when 1,000 or less, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000. Costs are listed as significant when meaningful or important, but not readily subject to quantification.

The Department identifies affected persons as the Department, counties, food establishments, consumers, and the public. The Department expects that the proposed rules may provide a significant benefit to the Department and counties by improving the ability of the Department and counties to effectively implement A.R.S. § 36-136(I)(4) by updating the United States Food and Drug Administration (FDA) 1999 Food Code to the 2017 Food Code used for licensing and inspecting food establishments. The Department and counties may also receive a significant benefit for the new requirements that allow mobile food units to obtain a state-license for serving food in multiple counties rather than just the county where a licensee of a mobile food unit resides. The Department expects that food establishments may receive a significant benefit for having all counties complying with one version of the Food Code (2017), particularly, those licensees who have multiple food establishments located in multiple counties and are currently required to follow different versions of the food code depending on the county where the food establishment is located. Additionally, with licensed food establishments following the 2017 Food Code, consumers are expected to receive a significant benefit for having food that is prepared, packaged, and served according to standards designed to protect their health and safety. The Department has determined that the benefits outweigh any potential costs associated with this rulemaking.

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

Name: Eric Thomas, Chief

Address: Department of Health Services
Division of Public Health Services, Public Health Preparedness,
Office of Environmental Health
150 N. 18th Ave., Suite 140
Phoenix, AZ 85007-3248

Telephone: (602) 364-3142

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E-mail: Eric.Thomas@azdhs.gov



or
 Name: Stephanie Elzenga
 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: Stephanie.Elzenga@azdhs.gov

10. Where, when, and how persons may provide written comments on the proposed rule:

The Department has scheduled the following oral proceeding:

Date and time: Thursday, April 14, 2020, 2:00 p.m.
 Location: 150 N. 18th Ave., Conference Room 295B
 Phoenix, AZ 85007

Close of record: Thursday, April 14, 2020, 3:00 p.m.

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items #4 and #9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Stephanie Elzenga at Stephanie.Elzenga@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

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:

There are no other matters prescribed by statutes applicable specifically to the Department or this specific rulemaking.

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:

A.R.S. § 36-136 provides for the licensing of food establishments. While some counties may issue permits rather than licenses to food establishments, these permits are issued under a delegation agreement between the Department and the county in lieu of a license from the Department. A general permit is not used.

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:

No federal law is applicable to the subject of the rule. The U.S. Department of Health and Human Services, Food and Drug Administration periodically publish editions of the Food Code, which is a model for safeguarding public health and ensuring food is safe for human consumption. Further, the Food Code provides a uniform system of provisions that address the safety and protection of food offered at retail and in food service. The authority to regulate food establishments comes from state statutes, and state regulatory agencies may adopt all or portions of specific editions of the Food Code, as well as other requirements not contained in the Food Code, to achieve state public health goals. This rulemaking updates the incorporation by reference from the 1999 Food Code to the 2017 Food Code according to A.R.S. § 41-1028.

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 comparing competitiveness was received by the Department.

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

The United States Food and Drug Administration publication, Food Code: 2017 Recommendations of the United States Public Health Service, Food and Drug Administration as specified in this Article. This incorporation by reference contains no future editions or amendments. The incorporated material is on file with the Department and is available for order at: <https://www.fda.gov/Food/ResourcesForYou/Consumers/ucm239035.htm>, refer to publication number IFS17.

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

ARTICLE 1. ~~FOOD AND DRINK~~ FOOD ESTABLISHMENTS

Section	
R9-8-101.	Definitions Purpose and Definitions
R9-8-102.	Management and Personnel
R9-8-103.	Food Establishment License Application Food
R9-8-104.	Time frame Equipment, Utensils, and Linens
Table 1.	Time frames (in days)
R9-8-105.	Issuance of License Water, Plumbing, and Waste



R9-8-106.	<u>License Suspension or Revocation Physical Facilities</u>
R9-8-107.	<u>Food Safety Requirements Poisonous or Toxic Materials</u>
R9-8-108.	<u>Inspection Standardization and Documentation Compliance and Enforcement</u>
Table 1.1.	<u>Time-frames (in calendar days)</u>
R9-8-109.	<u>Cease and Desist and Abatement Repealed</u>
R9-8-110.	<u>Mobile Food Units</u>
R9-8-111.	<u>Compliance and Enforcement, Annex 1</u>
R9-8-112.	<u>References, Annex 2</u>
R9-8-113.	<u>Public Health Reasons/Administrative Guidelines, Annex 3</u>
R9-8-114.	<u>Management of Food Safety Practices, Annex 4</u>
R9-8-115.	<u>Conducting Risk-based Inspections, Annex 5</u>
R9-8-116.	<u>Food Processing Criteria, Annex 6</u>
R9-8-117.	<u>Model Forms, Guides, and Other Aids, Annex 7</u>
R9-8-118.	<u>Exempt from Regulation and Inspections</u>
R9-8-119.	<u>Manufactured Food Plants</u>

ARTICLE 1. FOOD AND DRINK FOOD ESTABLISHMENTS

R9-8-101. Definition

In addition to the terms defined in the material incorporated by reference in R9-8-107, which are designated by all capital letters, the following definitions apply in this Article, unless otherwise specified:

1. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
2. "Applicant" means the following PERSON requesting a LICENSE:
 - a. If an individual, the individual who owns the FOOD ESTABLISHMENT;
 - b. If a corporation, any officer of the corporation;
 - c. If a limited liability company, the designated manager or, if no manager is designated, any member of the limited liability company;
 - d. If a partnership, any two of the partners;
 - e. If a joint venture, any two individuals who signed the joint venture agreement;
 - f. If a trust, the trustee of the trust;
 - g. If a religious or nonprofit organization, the individual in the senior leadership position within the organization.
 - h. If a school district, the superintendent of the district;
 - i. If an agency, the individual in the senior leadership position within the agency; or
 - j. If a county, municipality, or other political subdivision of the state, the individual in the senior leadership position within the county, municipality, or political subdivision.
3. "Department" means the Arizona Department of Health Services.
4. "Developmental disability" means the same as in A.R.S. § 36-551.
5. "FC" means the United States Food and Drug Administration publication, Food Code: 1999 Recommendations of the United States Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in R9-8-107.
6. "Incongruous" means inconsistent with the inspection reports of other inspectors or the REGULATORY AUTHORITY as a whole because significantly more or fewer violations of individual CRITICAL ITEMS are documented.
7. "Prepare" means to process commercially for human consumption by manufacturing, packaging, labeling, cooking, or assembling.
8. "Public health control" means a method to prevent transmission of foodborne illness to the CONSUMER.
9. "Remodel" means to change the PHYSICAL FACILITIES or PLUMBING FIXTURES in a FOOD ESTABLISHMENT'S FOOD preparation, storage, or cleaning areas through construction, replacement, or relocation, but does not include the replacement of old EQUIPMENT with new EQUIPMENT of the same type.
10. "Requester" means a PERSON who requests an approval from the REGULATORY AUTHORITY, but who is not an applicant or a LICENSE HOLDER.

R9-8-101. Purpose and Definitions

- A. The Department incorporates by reference the United States Food and Drug Administration publication, Food Code: 2017 Recommendations of the United States Public Health Service, Food and Drug Administration and shall comply with the 2017 Food Code (FC) as specified in this Article. This incorporation by reference contains no future editions or amendments. The incorporated material is on file with the Department and is available for order at: <https://www.fda.gov/Food/ResourcesForYou/Consumers/ucm239035.htm>, refer to publication number IFS17.
- B. The Department incorporates FC Chapter 1 in whole, unless otherwise specified:
 1. Part 1-1 Title, Intent, Scope; and
 2. Part 1-2 Definitions in part.
- C. In FC Part 1-2, Section 1-201.10(B), the Department:
 1. Uses the word "License" in place of the word "Permit."
 2. Uses the word "License holder" in place of the word "Permit holder."
 3. Modifies the following:
 - a. "Additive" means:



- i. “Food additive” means the same as in A.R.S. § 36-901(7); and
- ii. “Color additive” means the same as in A.R.S. § 36-901(2).
- b. “Adulterated” means possessing one or more of the conditions enumerated in A.R.S. § 36-904(A).
- c. “Approved” means acceptable to the REGULATORY AUTHORITY or to the FOOD regulatory agency that has jurisdiction based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- d. “Consumer” means a PERSON who is a member of the public, takes possession of FOOD, is not functioning in the capacity of an operator of a FOOD ESTABLISHMENT and does not offer the FOOD for resale.
- e. “Food Establishment” does not include:
 - i. An establishment that offers only prePACKAGED FOOD that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;
 - ii. A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - iii. A kitchen in a private home if only FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, is prepared for sale or service at a function such as a religious or charitable (organization’s bake sale if allowed by LAW and if the CONSUMER is informed by a clearly visible placard at the sales or service location that the FOOD is prepared in a kitchen that is not subject to regulation and inspection by the REGULATORY AUTHORITY;
 - iv. An area where FOOD that is prepared as specified in Subparagraph (iii) of this definition is sold or offered for human consumption;
 - v. A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers FOOD to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the CONSUMER is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated and inspected by the REGULATORY AUTHORITY; or
 - vi. A private home that receives catered or home-delivered FOOD.
- f. “Packaged” means bottled, canned, cartoned, securely bagged, or securely wrapped compliant with LAW.
- g. “Person in charge” means the individual present at a FOOD ESTABLISHMENT who is responsible for the management of the operation of the FOOD ESTABLISHMENT at the time of inspection.
- h. “Regulatory authority” means the Department or a public health services district, local health department, department of environmental services, or department of environmental quality carrying out delegated functions, powers, and duties on behalf of the Department.

D. In addition to the requirements in FC Part 1-2, Section 1-201.10(B), the Department requires definitions for:

- 1. “Administrative completeness review time-frame” means the same as in A.R.S. § 41-1072.
- 2. “Agency” means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
- 3. “Applicant” means an individual requesting a FOOD ESTABLISHMENT license.
- 4. “Calendar day” means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- 5. “Department” means the Arizona Department of Health Services.
- 6. “Developmental disability” means the same as in A.R.S. § 36-551.
- 7. “FC” means the United States Food and Drug Administration publication, Food Code: 2017 Recommendations of the United States Public Health Service, Food and Drug Administration incorporated by reference in subsection (A).
- 8. “Inspection report” means a document used to record the compliance status of a FOOD ESTABLISHMENT and conveys compliance information to the license holder or PERSON IN CHANGE at the conclusion of an inspection.
- 9. “License” means the same as “permit” as in the FC.
- 10. “License holder” means the same as “permit holder” as in the FC.
- 11. “Overall time-frame” means the same as in A.R.S. § 41-1072.
- 12. “Public health nuisance” means an act, condition, or thing, specified in A.R.S. § 36-601, or any practice contrary to the health laws of this state that is harmful to the health of the public.
- 13. “Substantive review time-frame” means the same as in A.R.S. § 41-1072.

R9-8-102. Management and Personnel

A. The Department incorporates FC Chapter 2 in whole unless otherwise specified:

- 1. Part 2-1 Supervision;
- 2. Part 2-2 Employee Health in part;
- 3. Part 2-3 Personal Cleanliness;
- 4. Part 2-4 Hygienic Practices; and
- 5. Part 2-5 Responding to Contamination Events.

B. In addition to the requirements in FC Part 2-2, the Department in:

- 1. Section 2-201.12(B)(3), adds hepatitis A virus requirements specified in A.A.C. R9-6-343(B)(1) through (3);
- 2. Section 2-201.13(C)(2),
 - a. Deletes “The FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER that states the FOOD EMPLOYEE is free from Typhoid fever.²” and



- b. Adds Typhoid fever requirements in A.A.C. R9-6-388(A)(4)(a) and (b).

R9-8-103. Food Establishment License Application

- A.** ~~To obtain a FOOD ESTABLISHMENT LICENSE, an applicant shall complete and submit to the REGULATORY AUTHORITY a FOOD ESTABLISHMENT LICENSE application form supplied by the REGULATORY AUTHORITY that indicates all of the following:~~
1. ~~The full name, telephone number, and mailing address of the applicant;~~
 2. ~~The name, telephone number, and street address of the FOOD ESTABLISHMENT;~~
 3. ~~Whether the FOOD ESTABLISHMENT is mobile or stationary;~~
 4. ~~Whether the FOOD ESTABLISHMENT is temporary or permanent;~~
 5. ~~Whether the FOOD ESTABLISHMENT facility is one of the following:~~
 - a. ~~A new construction that is not yet completed;~~
 - b. ~~An existing structure that is being converted for use as a FOOD ESTABLISHMENT; or~~
 - e. ~~An existing FOOD ESTABLISHMENT facility that is being remodeled;~~
 6. ~~Whether the FOOD ESTABLISHMENT prepares, offers for sale, or serves POTENTIALLY HAZARDOUS FOOD;~~
 7. ~~Whether the FOOD ESTABLISHMENT does any of the following:~~
 - a. ~~Prepares, offers for sale, or serves POTENTIALLY HAZARDOUS FOOD only to order upon CONSUMER request;~~
 - b. ~~Prepares, offers for sale, or serves POTENTIALLY HAZARDOUS FOOD in advance, in quantities based on projected CONSUMER demand;~~
 - e. ~~Prepares, offers for sale, or serves POTENTIALLY HAZARDOUS FOOD using time alone, rather than time and temperature, as the public health control as described in FC § 3-501.19;~~
 - d. ~~Prepares POTENTIALLY HAZARDOUS FOOD in advance using a multiple-stage FOOD preparation method that may include the following:~~
 - i. ~~Combining POTENTIALLY HAZARDOUS FOOD ingredients;~~
 - ii. ~~Cooking;~~
 - iii. ~~Cooling;~~
 - iv. ~~Reheating;~~
 - v. ~~Hot or cold holding;~~
 - vi. ~~Freezing; or~~
 - vii. ~~Thawing;~~
 - e. ~~Prepares FOOD as specified under subsection (A)(7)(d) for delivery to and consumption at a location off of the PREMISES where prepared;~~
 - f. ~~Prepares FOOD as specified under subsection (A)(7)(d) for service to a HIGHLY SUSCEPTIBLE POPULATION; or~~
 - g. ~~Does not prepare FOOD, but offers for sale only pre PACKAGED FOOD that is not POTENTIALLY HAZARDOUS FOOD; and~~
 8. ~~The applicant's signature and the date signed.~~
- B.** ~~An applicant who operates FOOD ESTABLISHMENTS at multiple locations shall submit a completed LICENSE application for each location.~~

R9-8-103. Food

- A.** The Department incorporates FC Chapter 3 in whole, unless otherwise specified:
1. Part 3-1 Characteristics;
 2. Part 3-2 Sources, Specifications, and Original Containers and Records;
 3. Part 3-3 Protection From Contamination After Receiving in part;
 4. Part 3-4 Destruction of Organisms of Public Health Concern;
 5. Part 3-5 Limitation of Growth of Organisms of Public Health Concern;
 6. Part 3-6 Food Identity, Presentation, and On-Premises Labeling;
 7. Part 3-7 Contaminated Food; and
 8. Part 3-8 Special Requirements for Highly Susceptible Populations.
- B.** In FC Part 3-3, the Department:
1. In paragraph 3-301.11(B), requires employees to use "non-latex SINGLE-USE gloves."
 2. In paragraph 3-304.15(E), requires "Latex gloves may not be used in direct contact with FOOD."

R9-8-104. Time frame

- A.** ~~This Section applies to the Department and to a local health department or public health services district to which the duty to comply with A.R.S. Title 41, Chapter 6, Article 7.1 has been delegated by the Department.~~
- B.** ~~The overall time frame described in A.R.S. § 41-1072 for each type of approval granted by the REGULATORY AUTHORITY is provided in Table 1. The applicant, LICENSE HOLDER, or requester and the REGULATORY AUTHORITY may agree in writing to extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed 25% of the overall time frame.~~
- C.** ~~The administrative completeness review time frame described in A.R.S. § 41-1072 for each type of approval granted by the REGULATORY AUTHORITY is provided in Table 1 and begins on the date that the REGULATORY AUTHORITY receives an application or request for approval.~~
1. ~~The REGULATORY AUTHORITY shall mail a notice of administrative completeness or deficiencies to the applicant, LICENSE HOLDER, or requester within the administrative completeness review time frame.~~
 - a. ~~A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the application or request for approval.~~



- b. If the REGULATORY AUTHORITY issues a notice of deficiencies within the administrative completeness review time frame, the administrative completeness review time frame and the overall time frame are suspended from the date that the notice is issued until the date that the REGULATORY AUTHORITY receives the missing information from the applicant, LICENSE HOLDER, or requester.
 - e. If the applicant, LICENSE HOLDER, or requester fails to submit to the REGULATORY AUTHORITY all of the information and documents listed in the notice of deficiencies within 180 days from the date that the REGULATORY AUTHORITY mailed the notice of deficiencies, the REGULATORY AUTHORITY shall consider the application or request for approval withdrawn.
2. If the REGULATORY AUTHORITY issues a LICENSE or other approval to the applicant, LICENSE HOLDER, or requester during the administrative completeness review time frame, the REGULATORY AUTHORITY shall not issue a separate written notice of administrative completeness.
- D.** The substantive review time frame described in A.R.S. § 41-1072 is provided in Table 1 and begins as of the date on the notice of administrative completeness.
1. The REGULATORY AUTHORITY shall mail written notification of approval or denial of the application or other request for approval to the applicant, LICENSE HOLDER, or requester within the substantive review time frame.
 2. As part of the substantive review for a FOOD ESTABLISHMENT LICENSE, the REGULATORY AUTHORITY may complete an inspection that may require more than one visit to the FOOD ESTABLISHMENT.
 3. During the substantive review time frame, the REGULATORY AUTHORITY may make one comprehensive written request for additional information, unless the REGULATORY AUTHORITY and the applicant, LICENSE HOLDER, or requester have agreed in writing to allow the REGULATORY AUTHORITY to submit supplemental requests for information.
 - a. The comprehensive written request regarding a FOOD ESTABLISHMENT LICENSE application may include a request for submission of plans and specifications, as described in FC § 8-201.11.
 - b. The comprehensive written request regarding a request for a VARIANCE under FC § 8-103.10 may include a request for a HACCP PLAN, as described in FC § 8-201.13(A), if the REGULATORY AUTHORITY determines that a HACCP PLAN is required.
 - e. If the REGULATORY AUTHORITY issues a comprehensive written request or a supplemental request for information, the substantive review time frame and the overall time frame are suspended from the date that the REGULATORY AUTHORITY issues the request until the date that the REGULATORY AUTHORITY receives all of the information requested.
 4. The REGULATORY AUTHORITY shall issue a license or an approval unless:
 - a. For a FOOD ESTABLISHMENT LICENSE application, the REGULATORY AUTHORITY determines that the application for a FOOD ESTABLISHMENT LICENSE or the FOOD ESTABLISHMENT does not satisfy all of the requirements of this Article;
 - b. For a VARIANCE, the REGULATORY AUTHORITY determines that the request for a VARIANCE fails to demonstrate that the VARIANCE will not result in a health HAZARD or nuisance;
 - e. For approval of plans and specifications, the REGULATORY AUTHORITY determines that the plans and specifications do not satisfy all of the requirements of this Article;
 - d. For approval of a HACCP PLAN, the REGULATORY AUTHORITY determines that the HACCP PLAN does not satisfy all of the requirements of this Article;
 - e. For approval of an inspection form, the Department determines that the inspection form does not satisfy all of the requirements of R9-8-108(B)(C); or
 - f. For approval of a quality assurance program, the Department determines that the quality assurance program does not satisfy all of the requirements of R9-8-108(E)(1).
 5. If the REGULATORY AUTHORITY denies an application or request for approval, the REGULATORY AUTHORITY shall send to the applicant, LICENSE HOLDER, or requester a written notice of denial setting forth the reasons for the denial and all other information required by A.R.S. § 41-1076.
- E.** For the purpose of computing time frames in this Section, the day of the act, event, or default from which the designated period of time begins to run is not included. Intermediate Saturdays, Sundays, and legal holidays are included in the computation. The last day of the period so computed is included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday.

R9-8-104. Equipment, Utensils, and Linens

The Department incorporates FC Chapter 4 in whole:

1. Part 4-1 Materials for Construction and Repair;
2. Part 4-2 Design and Construction;
3. Part 4-3 Numbers and Capacities;
4. Part 4-4 Location and Installation;
5. Part 4-5 Maintenance and Operation;
6. Part 4-6 Cleaning of Equipment;
7. Part 4-7 Sanitization of Equipment and Utensils;
8. Part 4-8 Laundering; and
9. Part 4-9 Protection of Clean Items.



Table 1. Time frames (in days) Repealed

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness-Review-Time-frame	Substantive Review Time-frame
FOOD ESTABLISHMENT-LICENSE	A.R.S. § 36-136(H)(4)	60	30	30
Approval of VARIANCE under FC § 8-103.10	A.R.S. § 36-136(H)(4)	90	30	60
Approval of Plans and Specifications under FC § 8-201.11	A.R.S. § 36-136(H)(4)	90	30	60
Approval of HACCP PLAN under FC § 8-201.13	A.R.S. § 36-136(H)(4)	90	30	60
Approval of Inspection Form	A.R.S. § 36-136(H)(4)	90	30	60
Approval of Quality Assurance-Program	A.R.S. § 36-136(H)(4)	90	30	60

R9-8-105. Issuance of License

A FOOD ESTABLISHMENT LICENSE issued by the REGULATORY AUTHORITY shall bear the following information:

1. The name of the FOOD ESTABLISHMENT;
2. The street address of the FOOD ESTABLISHMENT;
3. The full name of the LICENSE HOLDER;
4. The mailing address of the LICENSE HOLDER; and
5. A unique identification number assigned by the REGULATORY AUTHORITY.

R9-8-105. Water, Plumbing, and Waste

A. The Department incorporates FC Chapter 5 in whole, unless otherwise specified:

1. Part 5-1 Water in part;
2. Part 5-2 Plumbing System;
3. Part 5-3 Mobile Water Tank and Mobile Food Establishment Water Tank;
4. Part 5-4 Sewage, Other Liquid Waste, and Rainwater; and
5. Part 5-5 Refuse, Recyclables, and Returnable.

B. In FC Part 5-1, the Department in Section 5-101.13 requires “BOTTLED DRINKING WATER used or sold in a FOOD ESTABLISHMENT shall be obtained from APPROVED sources in accordance with LAW.”

R9-8-106. License Suspension or Revocation

A. The REGULATORY AUTHORITY may suspend or revoke a FOOD ESTABLISHMENT LICENSE if the LICENSE HOLDER:

1. Violates this Article or A.R.S. § 36-601; or
2. Provides false information on a LICENSE application.

B. A LICENSE revocation or suspension hearing shall be conducted as follows:

1. If the REGULATORY AUTHORITY is the Department, the hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and any rules promulgated by the Office of Administrative Hearings;
2. If the REGULATORY AUTHORITY is a local health department or public health services district to which the duty to comply with A.R.S. Title 41, Chapter 6, Article 10 has been delegated, the hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and any rules promulgated by the Office of Administrative Hearings; and
3. For all other REGULATORY AUTHORITIES, a LICENSE revocation or suspension hearing shall be conducted in accordance with the procedures adopted by a county board of supervisors as required by A.R.S. § 36-183.04(E).

R9-8-106. Physical Facilities

A. The Department incorporates FC Chapter 6 in whole:

1. Part 6-1 Materials for Construction and Repair;
2. Part 6-2 Design, Construction, and Installation;
3. Part 6-3 Numbers and Capacities;
4. Part 6-4 Location and Placement; and
5. Part 6-5 Maintenance and Operation.

B. In addition to the requirements in FC Part 6-5, the Department requires:

1. A license holder for a VENDING MACHINE to affix to a VENDING MACHINE a permanent sign that includes:
 - a. A unique identifier for the VENDING MACHINE, and
 - b. A telephone number for CONSUMERS to contact the license holder.
2. A license holder operating a water vending machine shall comply with A.A.C. R18-4-216 and other applicable LAW.

R9-8-107. Food Safety Requirements

A. A LICENSE HOLDER shall comply with the United States Food and Drug Administration publication, Food Code: 1999 Recommendations of the United States Public Health Service, Food and Drug Administration (1999), as modified, which is incorporated by



reference. This incorporation by reference contains no future editions or amendments. The incorporated material is on file with the Department and is available for purchase from the United States Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as report number PB99-115925, or from the United States Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328, as ISBN 0-16-050028-1; and is available on the Internet at <http://www.fda.gov>.

- B. The material incorporated by reference in subsection (A) is modified as follows:
 1. Where the term “permit” appears, it is replaced with “license”;
 2. Subparagraph 1-201.10(B)(2)(a) is modified to read: “‘Food additive’ has the meaning stated in A.R.S. § 36-901(7).”;
 3. Subparagraph 1-201.10(B)(2)(b) is modified to read: “‘Color additive’ has the meaning stated in A.R.S. § 36-901(2).”;
 4. Subparagraph 1-201.10(B)(3) is modified to read: “‘Adulterated’ means possessing one or more of the conditions enumerated in A.R.S. § 36-904(A).”;
 5. Subparagraph 1-201.10(B)(4) is modified to read: “‘Approved’ means acceptable to the REGULATORY AUTHORITY or to the FOOD regulatory agency that has jurisdiction based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.”;
 6. Subparagraph 1-201.10(B)(14) is modified by deleting “or FOOD PROCESSING PLANT”;
 7. Subparagraph 1-201.10(B)(31)(e)(iii) is deleted;
 8. Subparagraph 1-201.10(B)(32) is modified to read: “‘Food processing plant’ means a FOOD ESTABLISHMENT that manufactures, packages, labels, or stores FOOD for human consumption and does not provide FOOD directly to a CONSUMER.”;
 9. Subparagraph 1-201.10(B)(50)(a) is modified to read: “‘Packaged’ means bottled, canned, cartoned, securely bagged, or securely wrapped.”;
 10. Subparagraph 1-201.10(B)(54) is modified to read: “‘Person in charge’ means the individual present at a FOOD ESTABLISHMENT who is responsible for the management of the operation at the time of inspection.”;
 11. Subparagraph 1-201.10(B)(69) is modified to read: “‘Regulatory authority’ means the Department or a local health department or public health services district operating under a delegation of authority from the Department.”;
 12. Paragraph 3-202.11(C) is modified to read: “POTENTIALLY HAZARDOUS FOOD that is cooked to a temperature and for a time specified under §§ 3-401.11–3-401.13 and received hot shall be at a temperature of 54° C (130° F) or above.”;
 13. Paragraph 3-202.14(B) is modified to read: “All milk and milk products sold at the retail level in Arizona shall comply with the requirements in A.A.C. Title 3, Chapter 2, Article 8.”;
 14. Paragraph 3-202.17(B) is deleted;
 15. Paragraph 3-202.18(B) is deleted;
 16. Paragraph 3-203.11(A) is modified to read: “Except as specified in (B) and (C) of this Section, MOLLUSCAN SHELLFISH may not be removed from the container in which they are received other than immediately before sale, preparation for service, or preparation in a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY.”;
 17. Paragraph 3-203.12(B) is modified to read:

“(B) The identity of the source of SHELLSTOCK that are prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY, sold, or served shall be maintained by retaining SHELLSTOCK tags or labels for 90 calendar days from the date the container is emptied by:

 - (1) Using an APPROVED record-keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the SHELLSTOCK are prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY, sold, or served; and
 - (2) If SHELLSTOCK are removed from their tagged or labeled container:
 - (a) Using only one tagged or labeled container at a time, or
 - (b) Using more than one tagged or labeled container at a time and obtaining a VARIANCE from the REGULATORY AUTHORITY as specified in § 8-103.10 based on a HACCP PLAN that:
 - (i) Is submitted by the LICENSE HOLDER and APPROVED as specified under § 8-103.11;
 - (ii) Preserves source identification by using a record-keeping system as specified under Subparagraph (B)(1) of this Section, and
 - (iii) Ensures that SHELLSTOCK from one tagged or labeled container are not commingled with SHELLSTOCK from another container before being ordered by the CONSUMER or prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY.”;
 18. Paragraph 3-301.11(B) is modified by replacing “SINGLE-USE gloves” with “non-latex SINGLE-USE gloves”;
 19. Paragraph 3-304.12(F) is modified to read: “In a container of water if the water is maintained at a temperature of at least 54° C (130° F) and the container is cleaned at a frequency specified under Subparagraph 4-602.11(D)(7).”;
 20. Section 3-304.15 is modified by adding a new Paragraph (E):

“(E) Latex gloves may not be used in direct contact with FOOD.”;
 21. Section 3-401.13 is modified to read: “Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 54° C (130° F).”;
 22. Paragraph 3-403.11(C) is modified to read: “READY TO EAT FOOD taken from a commercially processed, HERMETICALLY SEALED CONTAINER, or from an intact package from a FOOD PROCESSING PLANT that is inspected by the FOOD regulatory agency that has jurisdiction over the plant, shall be heated to a temperature of at least 54° C (130° F) for hot holding.”;
 23. Subparagraph 3-501.14(A)(1) is modified to read: “Within 2 hours, from 54° C (130° F) to 21° C (70° F); and”;
 24. Paragraph 3-501.16(A) is modified to read: “At 54° C (130° F) or above; or”;
 25. Subparagraph 3-501.16(C)(2) is modified to read: “Within 10 years of the adoption of this Code, the EQUIPMENT is upgraded or replaced to maintain FOOD at a temperature of 5° C (41° F) or less.”;
 26. Section 3-502.11 is modified by deleting “custom processing animals that are for personal use as FOOD and not for sale or service in a FOOD ESTABLISHMENT.”;



27. Paragraph 3-701.11(C) is modified by replacing “who has been restricted or excluded as specified under § 2-201.12” with “who has any of the conditions that require reporting to the PERSON IN CHARGE under § 2-201.11 or who has been excluded by the REGULATORY AUTHORITY under the communicable disease rules at 9 A.A.C. 6”;
28. Subparagraph 4-602.11(D)(7) is modified by replacing “60° C (140° F)” with “54° C (130° F)”;
29. Section 5-101.13 is modified to read: “BOTTLED DRINKING WATER used or sold in a FOOD ESTABLISHMENT shall be obtained from APPROVED sources, in accordance with LAW.”;
30. Paragraph 5-501.116(A) is modified by replacing “§ 5-402.14” with “§§ 5-402.13 and 5-403.11”;
31. Section 6-501.116 is added to read:
 “6-501.116 Vending Machine Signs.
 The LICENSE HOLDER for a VENDING MACHINE shall affix to the VENDING MACHINE a permanent sign that includes:
 1. A unique identifier for the VENDING MACHINE, and
 2. A telephone number for CONSUMERS to contact the LICENSE HOLDER.”;
32. Paragraph 8-101.10(A) is modified by deleting “, as specified in § 1-102.10.”;
33. Paragraph 8-201.11(C) is modified by replacing “as specified under 8-302.14(C)” with “as described in R9-8-103(A)(6)-(7)”;
34. Paragraph 8-304.11(D) is modified to read: “Require FOOD EMPLOYEE applicants to whom a conditional offer of employment is made and FOOD EMPLOYEES to report to the PERSON IN CHARGE the information required under § 2-201.11”;
35. Paragraph 8-304.11(H) is modified by replacing “5 years” with “10 years”;
36. Section 8-304.20 is modified by replacing “as specified under 8-302.14(C)” with “as described in R9-8-103(A)(6)-(7)”;
37. Section 8-402.11 is modified by adding the following at the end of the Section: “The Department or a local health department or public health services district to which the duty to comply with A.R.S. § 41-1009 has been delegated by the Department shall comply with A.R.S. § 41-1009 when performing inspections.”;
38. Section 8-403.50 is modified by deleting “Except as specified in § 8-202.10,” and capitalizing “the”;
39. Section 8-404.12 is modified by adding the following at the end of the Section: “The REGULATORY AUTHORITY shall approve or deny resumption of operations within five days after receipt of the LICENSE HOLDER’S request to resume operations.”;
40. Section 8-405.11 is modified by adding the following at the end of the Section:
 “(C) The Department or a local health department or public health services district to which the duty to comply with A.R.S. § 41-1009 has been delegated by the Department shall not provide the LICENSE HOLDER an opportunity to correct critical Code violations or HACCP PLAN deviations after the date of inspection if the Department or the local health department or public health services district determines that the deficiencies are:
 (1) Committed intentionally;
 (2) Not correctable within a reasonable period of time;
 (3) Evidence of a pattern of noncompliance; or
 (4) A risk to any PERSON; the public health, safety, or welfare; or the environment.
 (D) If the Department or a local health department or public health services district to which the duty to comply with A.R.S. § 41-1009 has been delegated by the Department allows the LICENSE HOLDER an opportunity to correct violations or deviations after the date of inspection, the Department, local health department, or public health services district shall inspect the FOOD ESTABLISHMENT within 24 hours after the deadline for correction has expired. If the Department, local health department, or public health services district determines that the violations or deviations have not been corrected, the Department, local health department, or public health services district may take any enforcement action authorized by LAW, based upon those violations or deviations.
 (E) A decision made under subparagraph 8-405.11(C) or subparagraph 8-405.11(D) by the Department or a local health department or public health services district to which the duty to comply with A.R.S. § 41-1009 has been delegated by the Department is not an appealable agency action, as defined by A.R.S. § 41-1092.”;
41. The following FC Sections are deleted:
 a. Section 1-102.10;
 b. Section 1-103.10;
 c. Section 2-201.12;
 d. Section 2-201.13;
 e. Section 2-201.14;
 f. Section 2-201.15;
 g. Section 8-102.10;
 h. Section 8-202.10;
 i. Section 8-302.11;
 j. Section 8-302.12;
 k. Section 8-302.13;
 l. Section 8-302.14;
 m. Section 8-303.10;
 n. Section 8-303.20;
 o. Section 8-303.30;
 p. Section 8-402.20;
 q. Section 8-402.30;
 r. Section 8-402.40;
 s. Section 8-403.10;
 t. Section 8-501.10;
 u. Section 8-501.20;



- v. Section 8-501.30; and
- w. Section 8-501.40; and
- 42. The annexes are excluded.

R9-8-107. Poisonous or Toxic Materials

The Department incorporates FC Chapter 7 in whole:

- 1. Part 7-1 Labeling and Identification;
- 2. Part 7-2 Operational Supplies and Applications; and
- 3. Part 7-3 Stock and Retail Sale.

R9-8-108. Inspection Standardization and Documentation

- A.** At each inspection, the REGULATORY AUTHORITY shall, at a minimum, inspect for compliance with each of the applicable CRITICAL ITEMS in the following categories:
 - 1. Temperature control of POTENTIALLY HAZARDOUS FOODS, as required by FC §§ 3-401.11, 3-401.12, 3-403.11, 3-501.14, and 3-501.16;
 - 2. EMPLOYEE health and hygienic practices, as required by FC §§ 2-201.11, 2-301.11, 2-301.12, 2-301.14, 2-401.11, 2-401.12, 2-403.11, 3-301.11, 3-301.12, and 5-203.11;
 - 3. Time as a public health control, as required by FC § 3-501.19;
 - 4. FOOD condition and source, as required by FC §§ 3-101.11, 3-201.11, 3-201.12, 3-201.14, 3-201.15, 3-201.16, 3-201.17, 3-202.11, 3-202.13, 3-202.14, 3-202.15, 3-202.16, 3-202.18, 3-203.12, 5-101.11, and 5-101.13;
 - 5. CONSUMER advisories, as required by FC § 3-603.11;
 - 6. Contamination prevention, as required by FC §§ 3-302.11, 3-302.13, 3-302.14, 3-304.11, 3-306.13, 3-306.14, 4-601.11, 4-602.11, 4-702.11, 4-703.11, 5-101.12, 5-201.11, and 5-202.11;
 - 7. Date marking and disposal of READY TO EAT FOODS, as required by FC §§ 3-501.17 and 3-501.18;
 - 8. Responsibility and knowledge of the PERSON IN CHARGE, as required by FC §§ 2-101.11 and 2-102.11; and
 - 9. Compliance with a HACCP PLAN or VARIANCE, as required by FC § 8-103.12;
- B.** The REGULATORY AUTHORITY shall document its inspection results on an inspection report form provided or approved by the Department. The inspection report form shall include the following:
 - 1. The name and address of the FOOD ESTABLISHMENT inspected;
 - 2. The LICENSE number of the FOOD ESTABLISHMENT inspected;
 - 3. The date of inspection;
 - 4. The type of inspection;
 - 5. A rating for each of the observed CRITICAL ITEMS listed in subsection (A), using a rating scheme that indicates whether the CRITICAL ITEM is met;
 - 6. Space for comments, including observed violations of non-CRITICAL ITEMS;
 - 7. Signature and date lines for the PERSON IN CHARGE of the FOOD ESTABLISHMENT; and
 - 8. Signature and date lines for the inspector conducting the inspection.
- C.** The REGULATORY AUTHORITY shall also document on the inspection form the applicable CRITICAL ITEMS listed in subsection (A) that were not observed during the inspection, unless the REGULATORY AUTHORITY has a quality assurance program that has been approved by the Department under subsection (E).
- D.** If a REGULATORY AUTHORITY desires to create its own inspection form, the REGULATORY AUTHORITY may request approval of its inspection form by submitting a written request to the Department along with a copy of the inspection form for which approval is sought. The Department shall approve an inspection form if it determines that the inspection form satisfies all of the requirements of subsections (B) and (C).
- E.** A REGULATORY AUTHORITY may request approval of a quality assurance program by submitting a written request to the Department along with a description of the quality assurance program for which approval is sought.
 - 1. The quality assurance program shall include the following:
 - a. A system for monitoring the inspection reports completed by each inspector every six months and comparing them to the reports of other inspectors and the REGULATORY AUTHORITY as a whole with respect to the number and types of violations documented during the same period;
 - b. Identification of each inspector whose inspection reports are incongruous;
 - c. Reinspection of a representative sample of an inspector's FOOD ESTABLISHMENTS for which inspection reports are incongruous by a quality assurance inspector within 30 days of identification of an inspector under subsection (E)(1)(b) to determine whether the incongruous reports indicate a misapplication of the rules by the inspector;
 - d. Follow-up with each inspector determined by a quality assurance inspector to have misapplied the rules:
 - i. If the inspector has not previously required follow-up, additional training by a quality assurance inspector regarding any misapplication of the rules by the inspector;
 - ii. If the inspector has previously received additional training under subsection (E)(1)(d)(i), formal counseling by the inspector's direct supervisor and a quality assurance inspector; or
 - iii. If the inspector has previously been formally counseled under subsection (E)(1)(d)(ii), disciplinary action; and
 - e. Consideration by the REGULATORY AUTHORITY of any misapplication of the rules by the inspector when completing the inspector's performance evaluations.
 - 2. The Department shall approve a quality assurance program if it determines that the quality assurance program satisfies all of the requirements of subsection (E)(1).

R9-8-108. Compliance and Enforcement

A. The Department incorporates FC Chapter 8 in whole, unless otherwise specified:



1. Part 8-1 Code Applicability;
 2. Part 8-2 Plans Submission and Approval;
 3. Part 8-3 Permit to Operate in part;
 4. Part 8-4 Inspection and Correction of Violations in part; and
 5. Part 8-5 Prevention of Foodborne Disease Transmission by Employees.
- B.** In FC Part 8-3, the Department does not accept requirement in Section 8-303.30, Denial of Application for Permit, Notice.
- C.** In addition to the requirements in FC Part 8-3, Section 8-302.14, the Department requires an applicant for a FOOD ESTABLISHMENT application include:
1. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 2. Whether the applicant agrees to allow the REGULATORY AUTHORITY to submit a supplemental request for additional information or documentation in Subsection (E);
 3. An attestation that the applicant authorizes the REGULATORY AUTHORITY to verify all information provided in the application packet; and
 4. An applicant who operates FOOD ESTABLISHMENTS at multiple locations shall submit an application for each location.
- D.** In addition to the requirements in FC Part 8-3, Section 8-303.20, the Department requires a licensee for a FOOD ESTABLISHMENT license renewal include:
1. Except for a FOOD ESTABLISHMENT operated by a state prison or behavioral health facility licensed by the Department, a FOOD ESTABLISHMENT'S license number and expiration date;
 2. Whether the applicant agrees to allow the REGULATORY AUTHORITY to submit supplemental request for additional information or documentation in Subsection (E); and
 3. An attestation that the applicant authorizes the REGULATORY AUTHORITY to verify all information provided in the application packet.
- E.** In addition to FC Part 8-3, the Department adds application and license renewal time-frame requirements:
1. The overall time-frame begins, for:
 - a. An application packet, on the date a REGULATORY AUTHORITY receives the applicant's application packet.
 - b. A license renewal packet, on the date a REGULATORY AUTHORITY receives the applicant's license renewal packet.
 2. An applicant and a REGULATORY AUTHORITY may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
 3. Within the administrative completeness review time-frame specified in Table 1.1, a REGULATORY AUTHORITY shall:
 - a. Provide a notice of administrative completeness to an applicant; or
 - b. Provide a notice of deficiencies to an applicant, including a list of the missing information or documents.
 4. If the REGULATORY AUTHORITY provides a notice of deficiencies to an applicant:
 - a. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the REGULATORY AUTHORITY receives the missing information or documents from the applicant;
 - b. If the applicant submits the missing information or documents to the REGULATORY AUTHORITY within the time-frame in Table 1.1, the substantive review time-frame resumes on the date the REGULATORY AUTHORITY receives the missing information or documents; and
 - c. If the applicant does not submit the missing information or documents to the regulatory authority within the time-frame in Table 1.1, the regulatory authority shall consider the application withdrawn.
 5. If a REGULATORY AUTHORITY issues a license or notice of approval during the administrative completeness review time-frame, the REGULATORY AUTHORITY may choose not to issue a separate written notice of administrative completeness.
 6. Within the substantive review time-frame specified in Table 1.1, a REGULATORY AUTHORITY:
 - a. Shall approve or deny:
 - i. An application, or
 - ii. A license renewal;
 - b. May make one written comprehensive request for additional information or documentation; and
 - c. May make supplemental requests for additional information and documentation if agreed to by the applicant or license holder.
 7. If a REGULATORY AUTHORITY provides a written comprehensive request for additional information or documentation or a supplemental request to an applicant or license holder:
 - a. The substantive review time-frame and overall time-frame are suspended from the date of the written comprehensive request or supplemental request until the date the REGULATORY AUTHORITY receives the information and documents requested; and
 - b. An applicant or license holder shall submit the information and documents listed in the written comprehensive request in a format provided by the REGULATORY AUTHORITY within 15 calendar days after the date of the written comprehensive request or supplemental request.
 8. The REGULATORY AUTHORITY shall issue to an applicant or license holder, as applicable:
 - a. An approval for:
 - i. An application, or
 - ii. A license renewal; or
 - b. A denial, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if an applicant or license holder;



- i. Does not submit all of the information and documentation listed in a written comprehensive request or supplemental request for additional information or documentation; or
 - ii. Does not comply with A.R.S. § 36-136 and this Article.
- E.** In FC Part 8-4, the Department:
1. In Section 8-402.11 requires “The REGULATORY AUTHORITY to comply with A.R.S. § 41-1009 when performing inspections.”
 2. Does not accept requirements in:
 - a. Section 8-402.20, Refusal, Notification of Right to Access, and Final Request for Access;
 - b. Section 8-402.30, Refusal, Reporting;
 - c. Section 8-402.40, Inspection Order to Gain Access; and
 - d. Section 8-403.10, Documenting Information and Observation.
 3. In Section 8-403.50 requires “A REGULATORY AUTHORITY treat the inspection report as a public document and shall make it available for disclosure to a PERSON who requests it as provided in LAW.”
 4. In Section 8-404.12 requires “A REGULATORY AUTHORITY approve or deny resumption of operations within five days after receipt of the license holder’s request to resume operations.”

Table 1.1. Time-frames (in calendar days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review	Respond to Deficiency Notice	Substantive Review
Application	A.R.S. § 36-136(I)(4)	90	45	180	45
License Renewal	A.R.S. § 36-136(I)(4)	90	45	180	45

R9-8-109: Cense and Desist and Abatement Repealed

- ~~**A.** Engaging in any practice in violation of this Article is a public nuisance.~~
- ~~**B.** If the REGULATORY AUTHORITY has reasonable cause to believe that any FOOD ESTABLISHMENT is creating or maintaining a nuisance, the REGULATORY AUTHORITY shall order the LICENSE HOLDER for the FOOD ESTABLISHMENT to cease and desist the activity and to abate the nuisance as follows:

 1. ~~The REGULATORY AUTHORITY shall serve upon the LICENSE HOLDER for the FOOD ESTABLISHMENT a written cease and desist and abatement order requiring the LICENSE HOLDER to cease and desist the activity and to remove the nuisance at the LICENSE HOLDER’s expense within 24 hours after service of the order. The order shall contain the following:

 - a. A reference to the statute or rule that is alleged to have been violated or on which the order is based;
 - b. A description of the LICENSE HOLDER’s right to request a hearing, and
 - e. A description of the LICENSE HOLDER’s right to request an informal settlement conference.~~
 2. ~~The REGULATORY AUTHORITY shall serve the order and any subsequent notices by personal delivery or certified mail, return receipt requested, to the LICENSE HOLDER’s or other party’s last address of record with the REGULATORY AUTHORITY or by any other method reasonably calculated to effect actual notice on the LICENSE HOLDER or other party.~~
 3. ~~The LICENSE HOLDER or another party whose rights are determined by the order may obtain a hearing to appeal the order by filing a written notice of appeal with the REGULATORY AUTHORITY within 30 days after service of the order. The LICENSE HOLDER or other party appealing the order shall serve the notice of appeal upon the REGULATORY AUTHORITY by personal delivery or certified mail, return receipt requested, to the office of the REGULATORY AUTHORITY or by any other method reasonably calculated to effect actual notice on the REGULATORY AUTHORITY.~~
 4. ~~If a notice of appeal is timely filed, the REGULATORY AUTHORITY shall do one of the following:

 - a. ~~If the REGULATORY AUTHORITY is the Department or a local health department or public health services district to which the duty to comply with A.R.S. Title 41, Chapter 6, Article 10 has been delegated, the notification and hearing shall comply with A.R.S. Title 41, Chapter 6, Article 10 and any rules promulgated by the Office of Administrative Hearings.~~
 - b. ~~For all other regulatory authorities, the notification and hearing shall comply with the procedures adopted by a county board of supervisors as required by A.R.S. § 36-183.04(E).~~~~
 5. ~~If no written notice of appeal is timely filed, the order shall become final without further proceedings.~~~~
- ~~**C.** The REGULATORY AUTHORITY shall inspect the FOOD ESTABLISHMENT 24 hours after service of the order to determine whether the LICENSE HOLDER has complied with the order. If the REGULATORY AUTHORITY determines upon inspection that the LICENSE HOLDER has not ceased the activity and abated the nuisance, the REGULATORY AUTHORITY shall cause the nuisance to be removed, regardless of whether the LICENSE HOLDER is appealing the order.~~
- ~~**D.** If the LICENSE HOLDER fails or refuses to comply with the order after a hearing has upheld the order or after the time to appeal the order has expired, the REGULATORY AUTHORITY may file an action against the LICENSE HOLDER in the superior court of the county in which the violation occurred, requesting that a permanent injunction be issued to restrain the LICENSE HOLDER from engaging in further violations as described in the order.~~

R9-8-110. Mobile Food Units

- A.** In addition to the definitions in A.R.S. § 36-1761 and in this Article, the following definitions apply to this Section, unless otherwise specified:
 1. “Commissary” means a facility that:
 - a. Is APPROVED by a REGULATORY AUTHORITY as safe and sanitary for FOOD preparation consistent with the FC and other state statutes and laws; and
 - b. Provides support and servicing activities to a mobile food unit that may include:



- i. A cooking facility or commercial kitchen used to prepare FOOD for sale and consumption;
 - ii. A space for storing FOOD, including refrigeration, and supplies;
 - iii. A source for potable water and disposing of wastewater;
 - iv. A source for refuse disposal; and
 - v. An area for cleaning equipment or a mobile food unit.
 2. “Commercially processed” means FOOD prepared or packaged by a FOOD manufacturer or licensed-permanent FOOD ESTABLISHMENT compliant with LAW.
 3. “County” means a public health services district, local health department, department of environmental services, or department of environmental quality authorized to issue a mobile food unit state-license.
 4. “Individually packaged” means pre-packaged FOOD that are ready for consumption and are not re-packaged prior to sale to consumers.
 5. “Food manufacturer” means a business engaged in making FOOD from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating FOOD, including FOOD crops or ingredients.
 6. “Other servicing area” means a facility that may provide one or more services, such as:
 - a. Disposing of refuse.
 - b. Disposing of wastewater.
 - c. Recharging potable water tank.
 - d. Disposing of excreta, or
 - e. Cleaning mobile food unit.
 7. “Permit” means a document issued by a county authorizing a state-licensed mobile food unit, whose state-license was issued by a different county, to operate in the county issuing the permit according to A.R.S. § 36-1761(A)(3).
 8. “Pre-packaged foods” means edible products sealed in a box, bag, can, or other container and sold to retailers or consumers in the same packaged box, bag, can, or other container.
 9. “State-license” means a document:
 - a. Issued by the county where a mobile food unit’s commissary is located according to A.R.S. 36-1761(A)(3)(c); and
 - b. Authorizes the mobile food unit to dispense FOOD for immediate service and human consumption.
 10. “Statewide inspection” means a visual examination of a mobile food unit to ensure that the mobile food unit meets the standards specified A.R.S. § 36-1761 and in this Article.
- B.** A mobile food vendor shall not operate a mobile food unit:
1. Without a state-license authorizing the mobile food unit to dispense FOOD for immediate service and human consumption;
 2. Without a service agreement with an APPROVED commissary according to A.R.S. § 36-1761(A);
 3. In another county, other than the county that issued the mobile food unit’s state-license, without a permit authorizing the mobile food unit to dispense FOOD for immediate service and human consumption; and
 4. If the mobile food unit maintains or engages in a public health nuisance specified A.R.S. § 36-601.
- C.** A mobile food vendor shall for each mobile food unit:
1. Obtain a state-license that includes a statewide inspection specified in subsection (H).
 2. Obtain a renewal state-license annually that includes a statewide inspection specified in subsection (H).
 3. Except for the county in which a mobile food unit has a state-license, obtain a permit annually for each county where the mobile food unit operates.
 4. Ensure all employees have a valid food handler card or a certificate from an accredited food handler training-provider as specified in the FC.
 5. Comply with random statewide inspections at no additional cost except as provided in A.R.S. § 11-269.24.
- D.** A mobile food unit:
1. Shall display in a conspicuous location for public viewing the mobile food unit’s:
 - a. State-license, and
 - b. County permits, if applicable.
 2. Shall clearly indicate on the sides or back of the exterior of the vehicle in permanent letters the name of the licensed FOOD ESTABLISHMENT.
 3. Shall report to a commissary or other serving area, as applicable, at least every 96 hours following A.R.S. § 11-269.24 or as determined by the county in which the mobile food unit’s commissary is located for receiving necessary services during operations to ensure public health and safety.
 4. May sell a cottage FOOD prepared for commercial purposes specified in R9-8-118(B)(13).
 5. Is not required to operate a specific distance from the perimeter of an existing commercial establishment or restaurant.
 6. Shall operate during hours determined by the mobile food vendor.
 7. Shall ensure toilet facilities are accessible to employees at a location where the mobile food unit is proposed to stay during all hours of operation.
- E.** A mobile food unit’s state-license shall indicate the mobile food unit classification based on the type of FOOD dispensed and the amount of handling and preparation required:
1. Type I mobile food unit is a FOOD ESTABLISHMENT that dispenses FOOD that are commercially processed, individually PACKAGED and frozen that requires time/temperature control for safety.
 2. Type II mobile food unit is a FOOD ESTABLISHMENT that dispenses FOOD that requires limited handling and preparation and:
 - a. Includes assemble-serve, heat-serve, and hold-serve of commercially processed FOOD;
 - b. Except for bacon-wrapped hotdogs pre-wrapped at a mobile food unit’s commissary, shall not cook raw animal FOOD for service from the mobile food unit;
 - c. Shall only use produce that is commercially pre-washed or washed in advance at a commissary; and



- d. All cooking, processing, preparing, grilling, assembling, storage, and service of any FOOD shall be conducted from the mobile food unit and commissary.
- 3. Type III mobile food unit is a FOOD ESTABLISHMENT that prepares, cooks, holds, and serves FOOD and:
 - a. Includes assemble-serve, heat-serve, cook-serve, and hold-serve of commercially processed FOOD;
 - b. May prepare raw animal FOOD for service from the mobile food unit; and
 - c. All cooking, processing, preparing, grilling, assembling, storage, and service of any FOOD shall be conducted inside the mobile food unit and commissary.
- F.** A mobile food vendor for each mobile food unit shall have a written agreement with a commissary or other servicing area, as applicable, located in the county that issues a mobile food unit's state-license:
 - 1. Is APPROVED by a REGULATORY AUTHORITY as safe and sanitary for FOOD preparation consistent with the FC and other state statutes and laws;
 - 2. Has a signed agreement with a commissary that includes:
 - a. The commissary's name, address, and telephone number;
 - b. The commissary's permit number issued by a REGULATORY AUTHORITY;
 - c. The mobile food vendor's name, address, and telephone number;
 - d. The manager's name, address, and telephone number, if applicable;
 - e. A list of services to be provided to the mobile food vendor; and
 - f. The expiration date of the agreement, if applicable; or
 - 3. Has a signed agreement with an other servicing area that includes:
 - a. The other servicing area's name, address, and telephone number;
 - b. The other servicing area's permit number, if applicable, issued by a REGULATORY AUTHORITY or other jurisdiction having authority to regulate the other servicing area;
 - c. The mobile food vendor's name, address, and telephone number;
 - d. The manager's name, address, and telephone number, if applicable;
 - e. A list of services to be provided to the mobile food vendor; and
 - f. The expiration date of the agreement, if applicable.
- G.** A mobile food vendor for each mobile food unit shall maintain a service log in a Department-provided format that:
 - 1. Documents the type of services, specified in Subsection (E), and dates received;
 - 2. Is maintained in the mobile food unit for at least a period of 30 days; and
 - 3. Is made available to a REGULATORY AUTHORITY upon request.
- H.** In addition to complying with the FC incorporated by reference in this Article, a mobile food unit is required to maintain general physical and operation requirements for:
 - 1. Installation of compressors, generators, and similar mechanical units that are not an integral part of the FOOD preparation or storage equipment;
 - 2. Waste disposal requirements during and after operation on public or private property, which may not include the size or dimensions of any required solid waste receptacle; and
 - 3. A mobile food unit and equipment used in the mobile food unit shall:
 - a. Be free of dirt, debris, insects, and vermins;
 - b. Be maintained in a clean and sanitary condition;
 - c. Be in good repair and maintained according to manufacturer's requirement, as applicable;
 - d. Be properly ventilated; and
 - e. Not maintain or engage a public health nuisance.
- I.** A mobile food unit statewide inspection shall ensure:
 - 1. A Type I mobile food unit:
 - a. Has equipment, including compressors, generators, and similar mechanical units approved by the National Sanitation Foundation or American National Standards Institute;
 - b. If selling or dispensing open FOOD, has a handwashing station that:
 - i. Is at least a 5 gallon insulated container for potable water that ensures proper handwashing consistent with FC;
 - ii. Has a catch-bucket to retain waste water generated from handwashing that is 15% greater than the potable water tank; and
 - iii. Has adequate soap and paper towels for time in service; and
 - c. Does not cook, prepare, or assemble FOOD.
 - 2. A Type II mobile food unit:
 - a. Has equipment, including compressors, generators, and similar mechanical units are approved by the National Sanitation Foundation or American National Standards Institute;
 - b. Has a potable water tank that is at least five gallons;
 - c. Has a waste water tank that is 15% greater than the potable water tank and any other applicable hot water storage or water storage capacity;
 - d. Has a handwash sink;
 - e. Has a combination mixing faucet of hot and cold water at all sinks;
 - f. Has plumbing connections;
 - g. Has a waste water tank to drain at lowest point of tank;
 - h. Has a water tank with a fill connection located at the top;
 - i. Has a National Sanitation Foundation or American National Standards Institute approved FOOD grade water hose;
 - j. Has a water heater or other APPROVED hot water source; and
 - k. Has a quick-disconnect design for sewer and potable water.



3. In addition to Subsection (2)(a) through (k), a Type III mobile food unit:
 - a. Has a three-compartment sink that includes:
 - i. A potable water system under pressure, supplying hot and cold water with a minimum capacity of 30 gallons permanently installed for warewashing, sanitization, and handwashing;
 - ii. A waste water capacity that is 15% greater than the potable water tank; and
 - iii. A minimum flow rate of one-half gallon per minute; and
 - b. May include a FOOD preparation sink for the purpose of washing product if an additional 20 gallons of potable water is available for use.
- J. Except for the Department, regulatory authorities through delegation in the county where a mobile food vendor's commissary is located shall issue state licensure and statewide inspection standards adopted pursuant to this section.

R9-8-111. Compliance and Enforcement, Annex 1

- A. The Department incorporates FC Annex 1 in whole, unless otherwise specified:
 1. Section 1, Purpose;
 2. Section 2, Explanation;
 3. Section 3, Principle;
 4. Section 4, Recommendation; and
 5. Section 5, Parts in part.
- B. In Annex 1, Section 5, the Department does not accept Part 8-911.10(B).
- C. In addition to Annex 1, Section 5, the Department adds licensure suspension or revocation requirements that:
 1. A REGULATORY AUTHORITY may suspend or revoke a FOOD ESTABLISHMENT license if the license holder:
 - a. Maintains or engages in a public health nuisance;
 - b. Falsifies records to interfere with or obstruct an investigation or regulatory process of the REGULATORY AUTHORITY;
or
 - c. Provides false or misleading information to a regulatory authority.
 2. A license revocation or suspension hearing shall be conducted as follows:
 - a. If a REGULATORY AUTHORITY is the Department, a hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10;
 - b. If a REGULATORY AUTHORITY is a public health district, local health department, department of environmental services, or department of environmental quality, the hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 or Article 10.
- D. In addition to Annex 1, Section 5, the Department adds cease and desist requirements that:
 1. If a REGULATORY AUTHORITY determines a FOOD ESTABLISHMENT is creating, maintaining, or engaging a public health nuisance the REGULATORY AUTHORITY shall serve the FOOD ESTABLISHMENT'S license holder a written cease and desist order pursuant to A.R.S. Title 36, Chapter 6, Article 1.
 2. If a written notice of appeal is not provided as specified in A.R.S. § 36-601(B), the cease and desist order shall become final.

R9-8-112. References, Annex 2

The Department incorporates FC Annex 2 in whole:

1. Section 1, United States Code and Code of Federal Regulations;
2. Section 2, Bibliography;
3. Section 3, Principle; and
4. Section 4, Food Defense Guidance from Farm to Table.

R9-8-113. Public Health Reasons and Administrative Guidelines, Annex 3

The Department incorporates FC Annex 3 in whole:

1. Section 1, Purpose and Definitions;
2. Section 2, Management and Personnel;
3. Section 3, Food;
4. Section 4, Equipment, Utensils, and Linens;
5. Section 5, Water, Plumbing, and Waste;
6. Section 6, Physical Facilities;
7. Section 7, Poisonous or Toxic Materials; and
8. Section 8, Compliance and Enforcement.

R9-8-114. Management of Food Safety Practices, Annex 4

The Department incorporates FC Annex 4 in whole:

1. Section 1, Active Managerial Control;
2. Section 2, Introduction to HACCP;
3. Section 3, The HACCP Principles;
4. Section 4, The Process Approach - A Practical Application of HACCP;
5. Section 5, FDA Retail HACCP Manuals;
6. Section 6, Advantages of Using the Principles of HACCP;
7. Section 7, Summary;
8. Section 8, Acknowledgements; and
9. Section 9, Resources and References.

R9-8-115. Conducting Risk-based Inspections, Annex 5



The Department incorporates FC Annex 5 in whole:

1. Section 1, Purpose and Scope;
2. Section 2, Risk-Based Routine Inspections;
3. Section 3, What is Needed to Properly Conduct a Risk-Based Inspection;
4. Section 4, Risk-Based Inspection Methodology;
5. Section 5, Achieving On-Site and Long-Term Compliance;
6. Section 6, Inspection Form and Scoring;
7. Section 7, Closing Conference; and
8. Section 8, Summary.

R9-8-116. Food Processing Criteria, Annex 6

The Department incorporates FC Annex 6 in whole:

1. Section 1, Introduction;
2. Section 2, Reduced Oxygen Packaging; and
3. Section 3, Smoking and Curing.

R9-8-117. Model Forms, Guides, and Other Aids, Annex 7

The Department incorporates FC Annex in whole:

1. Section 1, Employee Health Information;
2. Section 2, Adoption Information; and
3. Section 3, Summary Information.

~~R9-8-102~~ R9-8-118. Applicability Exempt from Requirements and Inspections

- A. Except as provided in subsection (B), this Article applies to any FOOD ESTABLISHMENT.
- B. This Article does not apply to the following, which are not subject to routine inspection or other regulatory activities by a REGULATORY AUTHORITY:
 1. The beneficial use of wildlife meat authorized in A.R.S. § 17-240 and 12 A.A.C. 4, Article 1;
 2. Group homes, as defined in A.R.S. § 36-551;
 3. Child care group homes, as defined in A.R.S. § 36-897 and licensed under 9 A.A.C. 3;
 4. Residential group care facilities, as defined in A.A.C. R6-5-7401 that have 20 or fewer clients;
 5. Assisted living homes, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 8;
 6. Adult day health care facilities, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 11, that are authorized by the Department to provide services to 15 or fewer participants;
 7. Behavioral health residential facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 7, that are authorized by the Department to provide services to 10 or fewer residents;
 8. Hospice inpatient facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 6, that are authorized by the Department to provide services for 20 or fewer patients;
 9. Substance abuse transitional facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 14, that are authorized by the Department to provide services to 10 or fewer participants;
 10. Behavioral health respite homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 16;
 11. Adult behavioral health therapeutic homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 18;
 12. ~~Food or drink~~ FOOD that is:
 - a. Served at a noncommercial social event, such as a potluck;
 - b. Prepared at a cooking school if:
 - i. The cooking school is conducted in the kitchen of an owner-occupied home,
 - ii. Only one meal per day is prepared and served by students of the cooking school,
 - iii. The meal prepared at the cooking school is served to not more than 15 students of the cooking school, and
 - iv. The students of the cooking school are provided with written notice that the ~~food~~ FOOD is prepared in a kitchen that is not regulated or inspected by a REGULATORY AUTHORITY;
 - c. Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes;
 - d. Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising, or an employee social event;
 - e. A demonstration of FOOD preparation or cooking class offered by:
 - i. A culinary school or educational institution and all FOOD prepared is consumed by attending students;
 - ii. A school or business and samples are not offered for human consumption; and
 - iii. A business where an individual provides, prepares, cooks, and consumes their own FOOD.
 - e-f. Offered at a child care facility and limited to commercially pre-packaged ~~food~~ FOOD that is not potentially hazardous and whole fruits and vegetables that are washed and cut onsite for immediate consumption; or
 - f-g. Offered at locations that sell only commercially pre-packaged ~~food or drink~~ FOOD that is not potentially hazardous;
 13. A cottage ~~food~~ FOOD product, as defined in A.R.S. § 36-136(Q), prepared for commercial purposes that:
 - a. Is not potentially hazardous as defined in A.R.S. § 36-136(I)(4)(g); or
 - b. Is not a ~~food~~ FOOD that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
 - c. Is prepared in the kitchen of a home by a food preparer or under the supervision of an individual who:
 - i. Has a certificate of completion from completing a food handler training course from an accredited program;
 - ii. Maintains an active certification of completion; and



- iii. If a food preparer, is registered with the Department, as required in A.R.S. § 36-136(I)(4)(g) and specified in subsection (D); and
- d. Is ~~packaged~~ **PACKAGED** at the home with an attached label that includes:
 - i. The name, and registration number of the food preparer registered with the Department as specified in subsection (D);
 - ii. A list of the ingredients in the cottage ~~food-product~~ **FOOD**;
 - iii. The date the cottage ~~food-product~~ **FOOD** was prepared; and
 - iv. The statement: This product was produced in a home kitchen that may process common ~~food~~ **FOOD** allergens and is not subject to public health inspection; and
 - v. If applicable, a statement that the cottage ~~food-product~~ **FOOD** was prepared in the home kitchen of a facility for individuals with developmental disabilities.
- 14. Fruits and vegetables grown in a garden at a public school, as defined in A.R.S. § 15-101, that are washed and cut on-site for immediate consumption.
- C. A food preparer who meets the requirements in subsection (B)(13) is authorized to prepare cottage ~~food-products~~ **FOOD** for commercial purpose.
- D. To be exempt from the requirements in this Article, a food preparer identified in subsection (C) shall:
 - 1. Complete a food handler training course from an accredited program;
 - 2. Register with the Department by submitting:
 - a. An application in a Department-provided format that includes:
 - i. The food preparer's name, address, telephone number, and e-mail address;
 - ii. If the food preparer is supervised, the supervisor's name, address, telephone number, and e-mail address;
 - iii. The address, including the county, of the home where the cottage ~~food-product~~ **FOOD** is prepared;
 - iv. Whether the home where the cottage ~~food-product~~ **FOOD** is prepared is a facility for developmentally disabled individuals; and
 - v. A description of each cottage ~~food-product~~ **FOOD** prepared for commercial purposes;
 - b. A copy of the food preparer's certificate of completion for the completed food handler training course;
 - c. If the food preparer is supervised, the supervisor's certificate of completion for the completed food handler training course; and
 - d. An attestation in a Department-provided format that the food preparer:
 - i. Has reviewed Department-provided information on ~~food~~ **FOOD** safety and safe ~~food~~ **FOOD** handling practices;
 - ii. Based on the Department-provided information, believes that the cottage ~~food-product~~ **FOOD** prepared for commercial purposes is not potentially hazardous or is not a ~~food~~ **FOOD** that requires time or temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
 - iii. Includes the food preparer's printed name and date.
 - 3. Maintain an active certification of completion for the completed food handler training course;
 - 4. Renew the registration in subsection (D)(2) every three years;
 - 5. Submit any change to the information or documents provided according to subsection (D)(2)(a) through (c) to the Department within 30 calendar days after the change; and
 - 6. Display the food preparer's certificate of registration when operating as a temporary ~~food-establishment~~ **FOOD ESTABLISHMENT** and selling cottage ~~food-products~~ **FOOD**.

R9-8-119. Manufactured Food Plants

A. The following definitions apply to this Section, unless otherwise specified:

- 1. "Consumer" means a person who:
 - a. Is a member of the public,
 - b. Takes possession of **FOOD**,
 - c. Is not functioning in the capacity of an operator of a manufacture food plant, and
 - d. Does not offer the **FOOD** for resale.
- 2. "FOOD PROCESSING PLANT" means a commercial operation that:
 - a. Manufactures, packages, labels, or stores **FOOD** for human consumption;
 - b. Provides **FOOD** for sale or distribution to other business entities such as **FOOD ESTABLISHMENTS** and retailers; and
 - c. Does not provide **FOOD** directly to a consumer.

B. In FC Part 3-2, Subpart 3-202, the Department:

- 1. In paragraph 3-203.11(A) requires "Except as specified in (B), (C), and (D) of this Section, **MOLLUSCAN SHELLFISH** may not be removed from the container in which they are received other than immediately before sale, preparation for service, or preparation in a **FOOD PROCESSING PLANT** licensed by the **REGULATORY AUTHORITY**."
- 2. In paragraph 3-203.12(C) requires "The identity of the source of **SHELLSTOCK** that are prepared by a **FOOD PROCESSING PLANT** licensed by the **REGULATORY AUTHORITY**, sold, or served shall be maintained by retaining **SHELLSTOCK** tags or labels for 90 calendar days from the date the container is emptied by:
 - a. Using an **APPROVED** record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the **SHELLSTOCK** are prepared by a **FOOD PROCESSING PLANT** licensed by the **REGULATORY AUTHORITY**, sold, or served; and
 - b. If **SHELLSTOCK** are removed from their tagged or labeled container:
 - i. Using only one tagged or labeled container at a time, or
 - ii. Using more than one tagged or labeled container at a time and obtaining a **VARIANCE** from the **REGULATORY AUTHORITY** as specified in § 8-103.10 based on a **HACCP PLAN** that:
 - (a) Is submitted by the license holder and **APPROVED** as specified under § 8-103.11,
 - (b) Preserves source identification by using a record keeping system as specified under Subparagraph (B)(1) of this



Section. and

- (c) Ensures that SHELLSTOCK from one tagged or labeled container are not commingled with SHELLSTOCK from another container before being ordered by the CONSUMER or prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY.”



- 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: March 23, 2020 at 10:00 a.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:**
The rule does not require the issuance of a regulatory permit. Therefore, a general permit is not applicable.
 - 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:**
Federal laws do not apply to the rule.
 - 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:**
None
- 13. **The full text of the rule follows:**

TITLE 9. HEALTH SERVICES
CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 8. ASSAULTS ON HOSPITAL EMPLOYEES, PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS,
OR STATE HOSPITAL EMPLOYEES

Section
R9-6-801. Definitions

ARTICLE 8. ASSAULTS ON HOSPITAL EMPLOYEES, PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS,
OR STATE HOSPITAL EMPLOYEES

R9-6-801. Definitions

In addition to the definitions in A.R.S. § 13-1210 and R9-6-101, the following definitions apply in this Article unless otherwise specified:

- 1. "Employer" means an individual in the senior leadership position with an agency or entity for which a named employee or volunteer works or that individual's designee.
- 2. "Named employee or volunteer" means one of the following who is listed as the assaulted individual in a petition, filed under A.R.S. § 13-1210 and granted by a court:
 - a. Hospital employee.
 - ~~a-b.~~ Public safety employee or volunteer, or
 - ~~b-c.~~ Arizona State Hospital employee.
- 3. "Occupational health provider" means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an agency or entity for which a named employee or volunteer works.



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

[R20-35]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
- | | |
|-----------|-------|
| R9-7-101 | Amend |
| R9-7-102 | Amend |
| R9-7-302 | Amend |
| R9-7-305 | Amend |
| R9-7-313 | Amend |
| R9-7-318 | Amend |
| R9-7-448 | Amend |
| R9-7-1507 | Amend |
| R9-7-1510 | Amend |
| R9-7-1514 | Amend |
| R9-7-1907 | Amend |
| R9-7-1923 | Amend |
| R9-7-1927 | Amend |
| R9-7-1977 | 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: 26 A.A.R. 354, February 28, 2020
- 4. The agency's contact person who can answer questions about the rulemaking:**
- Name: Brian D. Goretzki, Chief, Bureau of Radiation Control
 Address: Department of Health Services
 Public Health Licensing Services
 4814 S. 40th St.
 Phoenix, AZ 85040
- Telephone: (602) 255-4840
 Fax: (602) 437-0705
 E-mail: Brian.Goretzki@azdhs.gov
- or
- Name: Stephanie Elzenga, Acting Office 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: Stephanie.Elzenga@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 Commission (now U.S. Nuclear Regulatory Commission) and the Governor of Arizona in March of 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 radioactive material. The Department is revising the rules in A.A.C. Title 9, Chapter 7, by expedited rulemaking to make changes to conform to the RATS IDs 2013-2 and 2019-2. The Department also plans to make other changes specified in RATS IDs 2015-1, 2015-3, and 2019-1, based on a compatibility review of Arizona rules and federal regulations, as well as changes to reduce the administrative burden of the rules by correcting 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, March 20, 2020, 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 35.204; 10 CFR 37.7; 10 CFR 37.23; 10 CFR 37.25; 10 CFR 37.27; 10 CFR 37.43; 10 CFR 35.50; 10 CFR 35.59; 10 CFR 35.433; 10 CFR 35.3204; 10 CFR 37.7; 10 CFR 40.3; 10 CFR 40.4; 10 CFR 40.13; 10 CFR 40.22; 10 CFR 40.54; 10 CFR 40.55; 10 CFR 70.25; 10 CFR 70.50; 10 CFR 71; 10 CFR 73; 10 CFR 110; 21 CFR 1010.2; 21 CFR 1020.40; 28 CFR 16.30 through 16.34; 40 CFR 190; 40 CFR 191; 49 CFR 107; and 49 CFR 171 through 180.

c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitive-ness 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 R9-7-101, the Agreement between Arizona and the U.S. Nuclear Regulatory Commission.
- In R9-7-102: 21 CFR 1020.40, revised April 1, 2013, in the definition of "Certifiable cabinet x-ray system"; 21 CFR 1010.2 and 21 CFR 1020.40, revised April 1, 2013, in the definition of "Certified cabinet x-ray system"; 40 CFR 190 and 191, revised July 1, 2013, in the definition of "Generally applicable environmental radiation standards"; 49 CFR 173.403, revised October 1, 2012, in the definition of "Nuclear waste"; 10 CFR 35.50(a) or (c)(1) and 10 CFR 35.59, revised January 1, 2010, in the definition of "Radiation Safety Officer"; and 49 CFR 107, 171 through 180, revised October 1, 2013, in the definition of "Regulations of the U.S. Department of Transportation."
- In R9-7-1510: 49 CFR 173.403, revised October 1, 2010, in subsection (B)(2)(b); 49 CFR 173 and 178, revised October 1, 2010, in subsection (C); 49 CFR 173.403, revised October 1, 2010, in subsection (C)(3); 49 CFR 171.23, revised October 1, 2010, in subsection (D)(1); and 49 CFR 173.443, revised October 1, 2010, in subsection (E)(9).
- In R9-7-1927: 10 CFR 73, revised January 1, 2015 in subsection(A)(4); and 10 CFR 37.7, revised January 1, 2015, in subsection (C)(1).

While the citations to 10 CFR 71, which contains the NRC requirements governing packaging and transportation of radioactive materials, in the following Sections are remaining in the rules, the incorporations by reference to a specific, dated version are being removed as unnecessary because a regulated entity must comply with the current version of the NRC requirements regardless of the date of the document in the rules:

- R9-7-102, definitions of "A1," "A2," "Certificate of Compliance," "Major processor" and "Special form radioactive materials"
- R9-7-1507(A)
- R9-7-1510(B)(2)(a), (B)(3)(a) and (b), (B)(5), (C)(2)(b), (C)(6)(c), (D)(3)(b)(ii), (E)(8), (E)(10), and (E)(11)

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

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

ARTICLE 1. GENERAL PROVISIONS

Section	
R9-7-101.	Scope and Incorporated Materials
R9-7-102.	Definitions

ARTICLE 3. RADIOACTIVE MATERIAL LICENSING

Section	
R9-7-302.	Source Material; Exemptions
R9-7-305.	General Licenses – Source Material
R9-7-313.	Specific Terms and Conditions
R9-7-318.	Transfer of Radioactive Material

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

Section	
R9-7-448.	Additional Reporting

ARTICLE 15. TRANSPORTATION

Section	
R9-7-1507.	Packaging Quality Assurance
R9-7-1510.	Packaging
R9-7-1514.	Reserved Records

**ARTICLE 19. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL**

Section	
R9-7-1907.	Communications
R9-7-1923.	Access Authorization Program Requirements
R9-7-1927.	Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material
R9-7-1977.	Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

ARTICLE 1. GENERAL PROVISIONS

R9-7-101. Scope and Incorporated Materials

- A. Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own, or acquire any source of radiation.
- B. This Chapter does not apply to any person that is subject to regulation by the Nuclear Regulatory Commission.
- C. State control of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission, signed March 30, 1967 and incorporated by reference. This incorporated material contains no later editions or amendments, and together with all other incorporated materials in this Chapter, is available ~~for inspection or copying at the Arizona Department of Health Services, Bureau of Radiation Control, 4814 S. 40th St., Phoenix, AZ 85040~~ on the Arizona Department of Health Services, Bureau of Radiation Control website at <https://scp.nrc.gov/special/reg/agreements.pdf>.
- D. Federal regulations incorporated by reference in this Chapter are available from the U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 and <http://www.gpoaccess.gov/cfr/>.

R9-7-102. Definitions

Terms defined in A.R.S. § 30-651 have the same meanings when used in this Chapter, unless the context otherwise requires. Additional subject-specific definitions are used in other Articles.

“A1” means the maximum activity of special form radioactive material permitted in a type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A, ~~revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.~~

“A2” means the maximum activity of radioactive material, other than special form radioactive material, low specific activity (LSA) material, and surface contaminated object (SCO) material, permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71, Appendix A, ~~revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.~~

“Absorbed dose” means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.



“Accelerator” means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, “particle accelerator” is an equivalent term.

“Accelerator produced material” means any material made radioactive by irradiating it in a particle accelerator.

“Act” means A.R.S. Title 30, Chapter 4.

“Activity” means the rate of disintegration, transformation, or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

“Adult” means an individual 18 or more years of age.

“Agreement State” means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954, as amended (73 Stat. 689). “Nonagreement State” means any other state.

“Airborne radioactive material” means any radioactive material dispersed in the air in the form of aerosols, dusts, fumes, mists, vapors, or gases.

“Airborne radioactivity area” means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed radioactive material, exist in concentrations:

In excess of the derived air concentrations (DACs) specified in Appendix B, Table I of Article 4 of these rules; or

That an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

“ALARA” means as low as is reasonably achievable, making every reasonable effort to maintain exposures to radiation as far below the dose limits in these rules as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

“Analytical x-ray equipment” means equipment used for x-ray diffraction or x-ray-induced fluorescence analysis.

“Analytical x-ray system” means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

“Annual” means done or performed yearly. For purposes of Chapter 1, any required activity done or performed within plus or minus two weeks of the annual due date is considered done or performed in a timely manner.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with subpart B of this part and who has completed the training required by 10 CFR 37.43(c).

“Associate Radiation Safety Officer” means an individual who:

Meets the requirements in 10 CFR 35.50 and 10 CFR 35.59; and

Is currently identified as an Associate Radiation Safety Officer for the types of use of byproduct material for which the individual has been assigned duties and tasks by the Radiation Safety Officer on:

A specific medical use license issued by the Commission or an Agreement State; or

A medical use permit issued by a Commission master material licensee.

“Authorized medical physicist” means an individual who meets the requirements in R9-7-711; or is identified as an authorized medical physicist or teletherapy physicist on:

A specific medical use license issued by the Department, the NRC, or another Agreement State;

A medical use permit issued by a NRC master material licensee;

A permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee; or

A permit issued by a NRC master material license broad scope medical use permittee.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712; or is:

Identified as an authorized nuclear pharmacist on a specific license issued by the Department, the NRC, or another Agreement State that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material licensee that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy; or

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy; or



Identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

Designated as an authorized nuclear pharmacist in accordance with R9-7-311(G).

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; or is identified as an authorized user on:

The Department, NRC, or another Agreement State license that authorizes the medical use of radioactive material;

A permit issued by a NRC master material licensee that is authorized to permit the medical use of radioactive material;

A permit issued by the Department, the NRC, or another Agreement State specific licensee of broad scope that is authorized to permit the medical use of radioactive material; or

A permit issued by a NRC master material license broad scope permittee that is authorized to permit the medical use of radioactive material.

“Background investigation” means an assessment of an individual’s prior actions and experience conducted by a licensee or applicant, to support the determination of the individual’s trustworthiness and reliability in accordance with 10 CFR 37.25.

“Background radiation” means radiation from cosmic sources; not technologically enhanced naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of a licensee. “Background radiation” does not include sources of radiation regulated by the Department.

“Becquerel” (Bq) means the International System (SI) unit for activity and is equal to 1 disintegration per second (dps or tps).

“Bioassay” means the determination of kinds, quantities, or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, “radiobioassay” is an equivalent term.

“Brachytherapy” means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary or interstitial application.

“Byproduct material” means:

Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition;

Any discrete source of radium-226 that is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; or any material that, has been made radioactive by use of a particle accelerator; and is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; and

Any discrete source of naturally occurring radioactive material, other than source material, that the NRC, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security and; before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

“Calendar quarter” means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. A licensee or registrant shall not change the method of determining calendar quarters for purposes of this Chapter except at the beginning of a calendar year.

“Calibration” means the determination of:

The response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or

The strength of a source of radiation relative to a standard.

“Carrier” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“Certificate holder” means a person who has been issued a certificate of compliance or other package approval by the Department or NRC.



“Certificate of Compliance” (CoC) means the certificate issued by the NRC under 10 CFR 71, Subpart D, (~~Revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.~~) which authorizes the design of a package for the transportation of radioactive material.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, both sections revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“CFR” means Code of Federal Regulations.

“Chelating agent” means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

“Civil penalty” means the monetary fine which may be imposed on licensees by the Department, pursuant to A.R.S. § 30-687, for violations of the Act, this Chapter, or license conditions.

“Collective dose” means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

“Committed dose equivalent” (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

“Committed effective dose equivalent” (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($HE,50 = \sum wT,HT,50$).

“Consortium” means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a federal facility or a medical facility.

“Contamination” means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm^2 ($1 \times 10^{-5} \text{ } \mu\text{Ci/cm}^2$) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm^2 ($1 \times 10^{-6} \text{ } \mu\text{Ci/cm}^2$) for all other alpha emitters.

“Fixed contamination” means contamination that cannot be removed from a surface during normal conditions of transport.

“Non-fixed contamination” means contamination that can be removed from a surface during normal conditions of transport.

“Criticality Safety Index (CSI)” means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks or freight containers containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR 71.22, 10 CFR 71.23, and 10 CFR 71.59. The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

“Curie” means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} transformations per second (tps).

“Current license or registration” means a license or registration issued by the Department and for which the licensee has paid the license or registration fee for the current year according to R9-7-1304.

“Deep-dose equivalent” (Hd), which applies to external whole body exposure, is the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

“Depleted uranium” means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

“Discrete source” means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

“Dose” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, “radiation dose” is an equivalent term.

“Dose equivalent” (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

“Dose limits” means the permissible upper bound of radiation doses established in accordance with these rules. For purposes of these rules, “limits” is an equivalent term.

“Dosimeter” (See “Individual monitoring device”)

“Effective dose equivalent” (HE) means the sum of the products of the dose equivalent to each organ or tissue (HT) and the weighting factor (wT) applicable to each of the body organs or tissues that are irradiated ($HE = \sum wTHT$).

“Effluent release” means any disposal or release of radioactive material into the ambient atmosphere, soil, or any surface or subsurface body of water.



“Embryo/fetus” means the developing human organism from conception until the time of birth.

“Enclosed beam x-ray system” means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source during operation is precluded except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

“Enclosed radiography” means industrial radiography conducted by using cabinet radiography or shielded room radiography.

“Cabinet radiography” means industrial radiography conducted by using an x-ray machine in an enclosure not designed for human admittance and which is so shielded that every location on the exterior meets the conditions for an “unrestricted area.”

“Shielded room radiography” means industrial radiography conducted using an x-ray machine in an enclosure designed for human admittance and which is so shielded that every location of the exterior meets the conditions for an “unrestricted area.”

“Entrance or access point” means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

“Exhibit” for purposes of these rules, is equivalent in meaning to the word “Schedule” as found in previously issued rules, current license conditions, and regulation guide.

“Explosive material” means any chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

“Exposure” means:

Being subjected to ionizing radiation or radioactive materials.

The quotient of dQ by dm where “ dQ ” is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass “ dm ” are completely stopped in air. The special unit of exposure is the roentgen (R).

“Exposure rate” means the exposure per unit of time.

“External dose” means that portion of the dose equivalent received from any source of radiation outside the body.

“Extremity” means the hand, elbow, arm below the elbow, foot, knee, and leg below the knee. “Fail-safe characteristics” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“FDA” means the United States Food and Drug Administration.

“Field radiography” means industrial radiography, utilizing a portable or mobile x-ray system, which is not conducted in a shielded enclosure.

“Field station” means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

“Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities” means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190 and 191, revised July 1, 2013, incorporated by reference, and available under R9-7-101, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. This incorporated material contains no future editions or amendments.

“Gray” (Gy) means the International System (SI) unit of absorbed dose and is equal to 1 joule per kilogram. One gray equals 100 rad.

“Hazardous waste” means those wastes designated as hazardous in A.R.S. § 49-921(5).

“Healing arts” means the practice of medicine, dentistry, osteopathy, podiatry, chiropractic, and veterinary medicine.

“Health care institution” means every place, institution, or building which provides facilities for medical services or other health-related services, not including private clinics or offices which do not provide overnight patient care.

“High radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

“Human use” means the internal or external administration of radiation or radioactive materials to human beings.

“Impound” means to abate a radiological hazard. Actions which may be taken by the Department in impounding a source of radiation include seizing the source of radiation, controlling access to an area, and preventing a radiation machine from being utilized.

“Indian Tribe” means an Indian or Alaska native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

“Individual” means any human being.



“Individual monitoring” means the assessment of:

Dose equivalent

By the use of individual monitoring devices, or

By the use of survey data, or

Committed effective dose equivalent

By bioassay; or

By determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. (See the definition of DAC-hours in Article 4).

“Individual monitoring device” means a device designed to be worn by a single individual for the assessment of dose equivalent. For purposes of this Chapter, “dosimeter” and “personnel dosimeter,” are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, optical stimulation devices, and personal (“lapel”) air sampling devices.

“Individual monitoring equipment” means one or more individual monitoring devices. For purposes of this Chapter, “personnel monitoring equipment” is an equivalent term.

“Industrial radiography” means the examination of the macroscopic structure of materials by non-destructive methods utilizing sources of ionizing radiation.

“Injection tool” means a device used for controlled subsurface injection of radioactive tracer material.

“Inspection” means an examination or observation by a representative of the Department, including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the License or certificate of registration.

“Interlock” means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

“Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

“Irradiate” means to expose to radiation.

“Laser” (light amplification by the stimulated emission of radiation) means any device which can produce or amplify electromagnetic radiation with wavelengths in the range of 180 nanometers to 1 millimeter primarily by the process of controlled stimulated emission.

“Lens dose equivalent” (LDE) means the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeters (300 mg/cm²).

“License” means the grant of authority, issued pursuant to Articles 3 and 14 of this Chapter and A.R.S. §§ 30-671, 30-672, and 30-721 et seq., to acquire, possess, transfer, and use sources of radiation. The types of licenses issued by the Department are described in R9-7-1302.

“Licensed material” means radioactive material received, possessed, used, transferred, or disposed of under a general or specific license issued by the Department.

“Licensed practitioner” means a person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic, podiatry, or naturopathy in this state.

“Licensee” means any person who is licensed by the Department under this Chapter to acquire, possess, transfer, or use sources of radiation.

“Licensing State” means any state having regulations equivalent to this Chapter relating to, and an effective program for the regulation of, naturally occurring and accelerator-produced radioactive material (NARM).

“Limits” (See “Dose limits”)

“Local components” means those parts of an analytical x-ray system that are struck by x-rays, including radiation source housings, port and shutter assemblies, collimator, sample holders, cameras, goniometer, detectors and shielding but not including power supplies, transformers, amplifiers, readout devices, and control panels.

“Logging supervisor” means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

“Logging tool” means a device used subsurface to perform well logging.

“Lost or missing licensed or registered source of radiation” means licensed or registered source of radiation the location of which is unknown. Included are licensed radioactive material or a registered radiation source that has been shipped but has not reached its planned destination and whose location cannot be readily traced or ascertained in the transportation system.

“Low-level waste” means waste material which contains radioactive nuclides in concentrations or quantities which exceed applicable standards for unrestricted release but does not include:

High-level waste, such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;



Waste material containing transuranic elements with contamination levels greater than 10 nanocuries per gram (370 kilobecquerels per kilogram) of waste material; or

The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

“Low Specific Activity (LSA) material” means radioactive material with limited specific activity which is nonfissile or is excepted under 10 CFR 71.15, and which satisfies the descriptions and limits set forth in the following section. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. The LSA material must be in one of three groups:

LSA—I.

Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

Natural uranium, depleted uranium, natural thorium or their compounds or mixtures, provided they are unirradiated and in solid or liquid form;

Radioactive material other than fissile material, for which the A2 value is unlimited; or

Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with appendix A.

LSA—II.

Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 10⁻⁴ A2/g for solids and gases, and 10⁻⁵ A2/g for liquids.

LSA—III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77, in which:

The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days will not exceed 0.1 A2; and

The estimated average specific activity of the solid, excluding any shielding material, does not exceed 2 x 10⁻³A2/g.

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4, revised January 1, 2013, incorporated by reference, and available under R9-7-101. ~~This incorporated material contains no future editions or amendments.~~

“Medical dose” means a radiation dose intentionally delivered to an individual for medical examination, diagnosis, or treatment.

“Member of the public” means any individual except when that individual is receiving an occupational dose.

“MeV” means Mega Electron Volt which equals 1 million volts (10⁶ eV).

“Mineral logging” means any well logging performed in a borehole drilled for the purpose of exploration for minerals other than oil or gas.

“Minor” means an individual less than 18 years of age.

“Monitoring” means the measurement of radiation, radioactive material concentrations, surface area activities, or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, “radiation monitoring” and “radiation protection monitoring” are equivalent terms.

“Multiplier” means a letter representing a number. The use of a multiplier is based on the code given below:

Prefix	Multiplier Symbol	Value
eka	E	10 ¹⁸
peta	P	10 ¹⁵
tera	T	10 ¹²
giga	G	10 ⁹
mega	M	10 ⁶
kilo	k	10 ³



milli	m	10 ⁻³
micro	u	10 ⁻⁶
nano	n	10 ⁻⁹
pico	p	10 ⁻¹²
femto	f	10 ⁻¹⁵
atto	a	10 ⁻¹⁸

“NARM” means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material. This term should not be confused with “NORM” which is defined as naturally occurring radioactive material.

“Normal operating procedures” means the entire set of instructions necessary to accomplish the intended use of the source of radiation. These procedures shall include, but are not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the licensee, and data recording procedures which are related to radiation safety.

“Natural radioactivity” means the radioactivity of naturally occurring radioactive substances.

“NRC” means Nuclear Regulatory Commission, the U.S. Nuclear Regulatory Commission, or its duly authorized representatives.

“NRC Document Control Desk” means the Nuclear Regulatory Document Control Desk. ATTN: Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

“Nuclear waste” means any highway route controlled quantity (defined in 49 CFR 173.403, revised October 1, 2012, incorporated by reference, and available under R9-7-101; this incorporated material contains no future editions or amendments) of source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

“Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to sources of radiation, whether in the possession of a licensee, registrant, or other person. Occupational dose does not include a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, voluntary participation in a medical research program, or as a member of the public.

“Open beam system” means an analytical x-ray system in which an individual could place some body part in the primary beam path during normal operation.

“Ophthalmic physicist” means an individual who:

Meets the requirements in 10 CFR 35.433(a)(2) and 10 CFR 35.59; and

Is identified as an ophthalmic physicist on a:

Specific medical use license issued by the Department, the NRC, or another Agreement State;

Permit issued by a Department, NRC, or another Agreement State broad scope medical use licensee;

Medical use permit issued by a NRC master material licensee; or

Permit issued by a NRC master material licensee broad scope medical use permittee.

“Package” means the packaging together with its radioactive contents as presented for transport.

“Particle accelerator” (See “Accelerator”)

“Permanent radiographic installation” means a fixed, shielded installation or structure designed or intended for industrial radiography and in which industrial radiography is regularly performed.

“Personnel dosimeter” (See “Individual monitoring device”)

“Personnel monitoring equipment” (See “Individual monitoring device”)

“Personal supervision” means supervision in which the supervising individual is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the supervised individual and in such proximity that immediate assistance can be given if required.

“PET” (See Positron Emission Tomography (PET))

“Pharmacist” means an individual licensed by this state to compound and dispense drugs, prescriptions, and poisons.

“Physician” means an individual licensed pursuant to A.R.S. Title 32, Chapters 13 or 17.

“Positron Emission Tomography (PET)” means an imaging technique using radionuclides to produce high resolution images of the body’s biological functions.

“Positron Emission Tomography radionuclide production facility” means a facility operating a cyclotron or accelerator for the purpose of producing PET radionuclides.



“Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, ~~or~~ a Radiation Safety Officer, or an Associate Radiation Safety Officer.

“Primary beam” means radiation which passes through an aperture of the source housing by a direct path from the x-ray tube or a radioactive source located in the radiation source housing.

“Public dose” means the dose received by a member of the public from radiation from radioactive material released by a licensee or registrant, or exposure to a source of radiation used in a licensed or registered operation. It does not include an occupational dose or a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, or voluntary participation in a medical research program.

“Pyrophoric liquid” means any liquid that ignites spontaneously in dry or moist air at or below 130° F (54.4° C).

“Pyrophoric solid” means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently that it creates a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

“Qualified expert” means an individual certified in the appropriate field by the American Board of Radiology or the American Board of Health Physics, or having equivalent qualifications that provide the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs; or an individual certified in Therapeutic Radiological Physics or X-ray and Radium Physics by the American Board of Radiology, or having equivalent qualifications that provide training and experience in the clinical applications of radiation physics to radiation therapy, to calibrate radiation therapy equipment. The detailed requirements for a particular qualified expert may be provided in the respective Articles of this Chapter. For clarification purposes, a qualified expert is not always an authorized medical physicist; however, an authorized medical physicist is included within the definition of “qualified expert.”

“Quality Factor” (Q) means the modifying factor, listed in Tables I and II of this Article, that is used to derive dose equivalent from absorbed dose.

“Quarter” (See “Calendar quarter”)

“Rad” means the special unit of absorbed dose. One rad equals 100 ergs per gram, or 0.01 gray.

“Radiation” means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, this term is synonymous with ionizing radiation. Equivalent terminology for non-ionizing radiation is defined in Article 14.

“Radiation area” means any area accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

“Radiation dose” (See “Dose”)

“Radiation machine” means any device capable of producing radiation except those devices with radioactive material as the only source of radiation.

“Radiation Safety Officer” (RSO) means the individual ~~and~~ who:

~~for~~ For license conditions:

Meets the requirements in 10 CFR 35.50(a) or (c)(1) and 10 CFR 35.59, (revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or

~~is~~ Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC or ~~an~~ another Agreement State; or a medical use permit issued by a NRC master material licensee; or

~~Who, for~~ For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety and compliance with the Act, this Chapter, and any registration conditions.

“Radiation Safety Officer” (RSO) means the individual ~~and~~ who:

~~for~~ For license conditions:

Meets the requirements of R9-7-407, and for a medical license meets the training requirements of R9-7-710; or

~~is~~ Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC, or another Agreement State; or a medical use permit issued by a NRC master material licensee; or

~~Who meets~~ Meets the requirements in R9-7-512 on a specific industrial license issued by the Department, the NRC, or another Agreement State; or an industrial use permit issued by a NRC master material licensee; or

~~Who, for~~ For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety and compliance with the Act, this Chapter and any registration conditions.



“Radioactive marker” means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.

“Radioactive material” means any solid, liquid, or gas which emits radiation spontaneously.

“Radioactivity” means emission of electromagnetic energy or particles or both during the transformation of unstable atomic nuclei.

“Radiographer” means any individual who performs or personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of this Chapter and all conditions of the license or certificate of registration.

“Radiographer’s assistant” means any individual who, under the personal supervision of a radiographer, uses sources of radiation, radiographic exposure devices, related handling tools, or survey instruments in industrial radiography.

“Registrant” means any person who is registered with the Department and is legally obligated to register with the Department pursuant to these rules and the Act.

“Registration” is the process by which a person becomes a registrant pursuant to Article 2 or 14 of this Chapter. With the exception of registration of persons who install or service radiation machines, the types of registrations issued by the Department are described in R9-7-1302.

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 107, 171 through 180, revised October 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“Rem” means the special unit of dose equivalent (see “Dose equivalent”). The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

“Research and Development” means exploration, experimentation, or the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and Development does not include the internal or external administration of radiation or radioactive material to human beings.

“Restricted area” means any area where the licensee or registrant controls access for purposes of protecting individuals from exposure to radiation and radioactive material. A restricted area does not include any areas used for residential quarters, although a room or separate rooms in a residential building may be set apart as a restricted area.

“Roentgen” (R) means the special unit of exposure and is equal to the quantity of x or gamma radiation which causes ionization in air equal to 258 microcoulomb per kilogram (see “Exposure”).

“Safety system” means any device, program, or administrative control designed to ensure radiation safety.

“Sealed source” means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both the NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for each source or device.

“Shallow dose equivalent” (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²).

“Shielded position” means the location within a radiographic exposure device or storage container which, by manufacturer’s design, is the proper location for storage of the sealed source.

“Sievert” means the SI unit of dose equivalent (see “Dose equivalent”). The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

“Site boundary” means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

“Source changer” means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

“Source holder” means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

“Source material” means:

Uranium or thorium, or any combination of uranium or thorium, in any physical or chemical form; or

Ores that contain by weight 1/20 of 1 percent (0.05 percent) or more of uranium, thorium, or any combination of uranium and thorium.

Source material does not include special nuclear material.

“Source material milling” means any activity that results in the production of byproduct material as defined by the second subsection under the definition of “Byproduct material.”



“Source of radiation” or “source” means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

“Special form radioactive material” means radioactive material that satisfies all of the following conditions:

It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

It satisfies the test requirements specified in 10 CFR 71.75, ~~revised January 1, 2013, incorporated by reference, available under R9-7-101. This incorporated material contains no future editions or amendments.~~ A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

“Special nuclear material in quantities not sufficient to form a critical mass” means Uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; Uranium-233 in quantities not exceeding 200 grams; Plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{X \text{ gms U235}}{350} + \frac{Y \text{ gms U233}}{200} + \frac{Z \text{ gms Pu}}{200} \leq 1$$

“Storage area” means any location, facility, or vehicle which is used to store, transport, or secure a radiographic exposure device, storage container, sealed source, or other source of radiation when it is not in use.

“Storage container” means a device in which sealed sources are transported or stored.

“Subsurface tracer study” means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

“Survey” means an evaluation of the production, use, release, disposal, or presence of sources of radiation or any combination thereof under a specific set of conditions to determine actual or potential radiation hazards. Such evaluations include, but are not limited to, tests, physical examination and measurements of levels of radiation or concentration of radioactive material present.

“TEDE” (See “Total Effective Dose Equivalent”)

“Teletherapy” means therapeutic irradiation in which the source of radiation is at a distance from the body.

“Temporary job site” means any location where sources of radiation are used other than the specified locations listed on a license document. Storage of sources of radiation at a temporary jobsite shall not exceed six months unless the Department has granted an amendment authorizing storage at that jobsite.

“Test” means the process of verifying compliance with an applicable rule, order, or license condition.

“These rules” means all Articles of 9 A.A.C. 7.

“Total Effective Dose Equivalent” (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

“Total Organ Dose Equivalent” (TODE) means the sum of the deep-dose equivalent and the committed dose equivalent to the organ receiving the highest dose. Determination of TODE is described in R9-7-411.

“Tribal official” means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

“Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

“Unrestricted area” means any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive material. Any area used for residential quarters is an unrestricted area.

“Uranium - natural, depleted, enriched.”

Natural uranium means uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

Depleted uranium means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

Enriched uranium means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.



“U.S. Department of Energy” means the Department of Energy established by P.L. 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department of Energy exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers, and components; and transferred to the U.S. Energy Research and Development Administration and to the administrator of that agency under sections 104(b), (c), and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy under Section 301(a) of the Department of Energy Organization Act (P.L. 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

“Very high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose that exceeds 5 grays (500 rads) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates.

“Waste” (See “Low-level waste”)

“Waste handling licensees” means persons licensed to receive and store radioactive wastes prior to disposal and persons licensed to dispose of radioactive waste.

“Week” means seven consecutive days starting on Sunday.

“Well-bore” means a drilled hole in which wireline service operations and subsurface tracer studies are performed.

“Well-logging” means the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well and adjacent formations.

“Whole body” means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

“Wireline” means an armored cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

“Wireline service operation” means any evaluation or mechanical service which is performed in the well-bore using devices on a wireline.

“Worker” means any individual engaged in work under a license or registration issued by the Department and controlled by employment or contract with a licensee or registrant.

“WL” means working level, any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of 1.3E + 5 MeV of potential alpha particle energy. The short-lived radon daughters are – for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

“WLM” means working level month, an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month).

“Workload” means the degree of use of an x-ray or gamma-ray source per unit time.

“Year” means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

ARTICLE 3. RADIOACTIVE MATERIAL LICENSING

R9-7-302. Source Material; Exemptions

- A. Any person is exempt from this Article to the extent the person receives, possesses, uses, delivers or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20th of 1 percent (0.0005) of the mixture, compound, solution, or alloy.
- B. Any person is exempt from this Article to the extent the person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material, provided that, the person does not refine or process the ore except as authorized in a specific license.
- C. Any person is exempt from the requirements for a license set forth in this Article if the person receives, possesses, uses, or transfers:
 - 1. Any quantities of thorium contained in:
 - a. Incandescent gas mantles;
 - b. Vacuum tubes;
 - c. Welding rods;
 - d. Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;
 - e. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting, provided that each lamp does not contain more than 2 grams of thorium;
 - f. Rare earth metals, compounds, mixtures, or products containing not more than 0.25 percent by weight thorium, uranium, or any combination of thorium and uranium; or
 - g. Individual neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium;
 - 2. Source material contained in the following products:
 - a. Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent source material by weight;
 - b. Glassware containing not more than 2 percent by weight source material or, for glassware manufactured before August 27, 2013, 10 percent by weight source material glass enamel, and glass enamel frit containing not more than 10 percent source



- material by weight, but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass, glass enamel or ceramic used in construction; or
- c. Piezoelectric ceramic containing not more than 2 percent source material by weight;
 3. Photographic film, negatives, and prints containing uranium or thorium;
 4. Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subsection does not authorize the chemical, physical, or metallurgical treatment or processing of the finished product or part;
 5. Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of counterweights, provided that:
 - a. ~~The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, authorizing distribution by the licensee according to 10 CFR 40;~~
 - b.a. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";
 - e.b. Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; ~~and~~
 - d.c. The exemption contained in ~~this item~~ subsection (C)(5) does not authorize the chemical, physical, or metallurgical treatment or processing of any counterweight other than repair or restoration of any plating or other covering; and
 - e.d. ~~The requirements specified in subsections (C)(5)(b) and (c) do not apply to (C)(5)(a) and (b) need not be met by counterweights manufactured prior to December 31, 1969; provided, that these counterweights are were manufactured under a specific license issued by the Atomic Energy Commission and were~~ impressed with the legend, "CAUTION – RADIOACTIVE MATERIAL – URANIUM";
 6. Natural or depleted uranium metal used as shielding and constituting part of any shipping container; provided that:
 - a. The shipping container is conspicuously and legibly impressed with the legend "CAUTION – RADIOACTIVE SHIELDING – URANIUM," and
 - b. The uranium metal is encased in mild steel or equally fire resistant metal with minimum wall thickness of 1/8 inch (3.2 mm);
 7. Thorium ~~or uranium~~ contained in ~~or on~~ finished optical lenses, provided that each lens ~~or mirror~~ does not contain more than ~~30 percent of thorium by weight, and that the exemption contained in this item does not authorize either 10 percent by weight thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that the exemption contained in this Section does not authorize either:~~
 - a. The shaping, grinding, or polishing of ~~a thoriated lens such lens or mirror~~ or manufacturing processes other than the assembly of ~~a thoriated lens such lens or mirror~~ into optical systems and devices without any alteration of the lens ~~or mirror~~; or
 - b. The receipt, possession, use, or transfer of ~~uranium or~~ thorium contained in contact lenses, spectacles, or the eyepieces of binoculars or other optical instruments;
 8. Uranium contained in detector heads of fire detection units, provided that each detector head contains not more than 5 nanocuries (185 Bq) of uranium; or
 9. Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:
 - a. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and
 - b. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.
- D.** No person may initially transfer for sale or distribution a product containing source material to persons exempt under subsection (C), or equivalent regulations of the NRC or another Agreement State, unless authorized by a license issued under R9-7-318 to initially transfer such products for sale or distribution.
- E.** Persons authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under R9-7-318 for distribution only and are exempt from the requirements of Articles 4 and 10 of this Chapter, and R9-7-309(1) and (2).
- D-E.** The exemptions in ~~subsection~~ subsections (C), (D), and (E) do not authorize the manufacture of any of the products described.
- R9-7-305. General Licenses – Source Material**
- A.** This subsection grants a general license that authorizes commercial and industrial firms; research, educational, and medical institutions; and state and local government agencies to use, and transfer not more than 6.8 kg (15 pounds) of source material at any one time for research, development, educational, commercial, or operational purposes. A person authorized under this subsection shall not receive more than 68.2 kg (150 pounds) of source material in one calendar year. A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and Federal, State, and local government agencies to receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities.
1. No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year.
 2. As applicable:
 - a. No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this subsection unless it is accounted for under the limits of subsection (A)(1);
 - b. No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this subsection; or



- c. No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.
- B. A person who receives, possesses, uses, or transfers source material under a general license granted under subsection (A) is exempt from the provisions of ~~9 A.A.C. 7~~, Article 4 and Article 10 of this Chapter, provided the receipt, possession, use, or transfer is within the terms of the general license except that such person shall comply with the provisions of R9-7-434 and R9-7-452. This exemption does not apply to any person who is also in possession of source material under a specific license issued under this Article.
- C. This subsection grants a general license that authorizes a person to receive acquire, possess, use, or transfer depleted uranium contained in industrial products and devices provided:
 1. The depleted uranium is contained in the industrial product or device for the purpose of providing a concentrated mass in a small volume of the product or device;
 2. The industrial products or devices have been manufactured or initially transferred in accordance with a specific license governed by R9-7-311(J), or a specific license issued by the ~~U.S. Nuclear Regulatory Commission~~ NRC or ~~an another~~ Agreement State that authorizes manufacture of the products or devices for distribution to persons generally licensed by the ~~U.S. Nuclear Regulatory Commission~~ NRC or an Agreement State; and
 3. The person files an ARRA 23 "Registration Certificate -- Use of Depleted Uranium Under General License" with the Department. The person shall provide the information requested on the certificate and listed in Exhibit E. The person shall submit the information within 30 days after first receipt or acquisition of the depleted uranium, returning the completed registration certificate to the Department. The person shall report in writing to the Department any change in information originally submitted to the Department on ARRA 23. The person shall submit the change report within 30 days after the effective date of the described change.
- D. A person who receives, acquires, possesses, or uses depleted uranium according to the general license provided under subsection (C) shall:
 1. Not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;
 2. Not abandon the depleted uranium;
 3. Transfer the depleted uranium as prescribed in R9-7-318. If the transferee receives the depleted uranium under a general license established by subsection (C), the transferor shall furnish the transferee with a copy of this ~~Section~~ subsection and a copy of the registration certificate. If the transferee receives the depleted uranium under a general license governed by a regulation of the ~~U.S. Nuclear Regulatory Commission~~ NRC or ~~an another~~ Agreement State that is equivalent to subsection (C), the transferor shall furnish the transferee a copy of the equivalent rule and a copy of the registration certificate, accompanied by a letter explaining that use of the product or device is regulated by the ~~U.S. Nuclear Regulatory Commission~~ NRC or an Agreement State under requirements substantially similar to those in this Section;
 4. Within 30 days of any transfer, report in writing to the Department the name and address of the person receiving the depleted uranium; and
 5. Not export depleted uranium source material except under a license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 110.
- E. A person who receives, acquires, possesses, uses, or transfers depleted uranium in accordance with a general license granted under subsection (C) is exempt from the requirements of ~~9 A.A.C. 7~~, Articles 4 and 10 of this Chapter with respect to the depleted uranium covered by that general license.
- F. Any person who receives, possesses, uses, or transfers source material in accordance with subsection (A) shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Department about such contamination and may consult with the Department as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in R9-7-452.
- G. No person may initially transfer or distribute source material to persons generally licensed under subsection (A)(1) or (2), or equivalent regulations of the NRC or another Agreement State, unless authorized by a specific license issued in accordance with R9-7-318 or equivalent provisions of another Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample.

R9-7-313. Specific Terms and Conditions

- A. Each license issued under this Article is subject to all provisions of A.R.S. Title 30, Chapter 4 and to all rules, regulations, and orders of the Department.
- B. A licensee shall not transfer, assign, or in any manner dispose of a license issued or granted under this Article or a right to possess or utilize radioactive material granted by any license issued under this Article unless the Department finds that the transfer is consistent with the Department's statutes and rules, and gives its consent in writing. An application for transfer of license must include:
 1. The identity, technical and financial qualifications of the proposed transferee; and
 2. Financial assurance for decommissioning information required by R9-7-323.
- C. Each person licensed by the Department under this Article shall confine the use and possession of the material licensed to the locations and purposes authorized in the license.
- D. Each license issued pursuant to the rules in Articles 3, 5, 7, and 15 of this Chapter shall be deemed to contain the provisions set forth in the Act, whether or not these provisions are expressly set forth in the license.
- E. The Department may incorporate, in any license issued pursuant to the rules in this Chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of byproduct material as it deems appropriate or necessary in order to:



1. Promote the common defense and security;
 2. Protect health or to minimize danger to life or property;
 3. Protect restricted data; or
 4. Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and rules thereunder.
- F. Licensees required to submit emergency plans in accordance with R9-7-322 shall follow the emergency plan approved by the Department. The licensee may change the approved plan without Department approval only if the changes do not reduce the commitment of the plan. The licensee shall furnish the change to the Department and to affected offsite response organizations within six months after the change is made. Proposed changes that reduce, or potentially reduce, the commitment of the approved emergency plan may not be implemented without prior application to and prior approval by the Department.
- G. Each person licensed under this Section and each general licensee that is required to register under R9-7-306(A)(4)(o) shall notify the Department in writing if the licensee decides to permanently discontinue any or all activities involving materials authorized under the license. A specific licensee or general licensee shall notify the Department, in writing:
1. Immediately following the filing of a petition for bankruptcy under any Chapter of Title 11 of the United States Code if the petition for bankruptcy is by or against:
 - a. The licensee;
 - b. An entity (as defined in the bankruptcy code) controlling the licensee or listing the license or licensee as property of the estate; or
 - c. An affiliate (as defined in the bankruptcy code) of the licensee.
 2. Providing the following information:
 - a. The bankruptcy court in which the petition for bankruptcy was filed, and
 - b. The bankruptcy case title and number, and
 - c. The date the petition was filed.
- H. Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with R9-7-720. The licensee shall record the results of each test and retain each record for three years after the record is made. The licensee shall report the results of any test that exceeds the permissible concentration listed in R9-7-720 at the time of generator elution, in accordance with 10 CFR 35.3204.
- I. Inalienability of Licenses
1. No license issued or granted pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Department, after securing full information, finds that the transfer is in accordance with the provisions of this act and gives its consent in writing.
 2. An application for transfer of license must include:
 - a. The identity, technical and financial qualifications of the proposed transferee; and
 - b. Financial assurance for decommissioning information required by R9-7-323, 10 CFR 40.3 and 10 CFR 70.25.

R9-7-318. Transfer of Radioactive Material

- A. A licensee shall not transfer radioactive material except as authorized under this Section.
- B. Except as otherwise provided in the license and subject to the provisions of subsections (C) and (D), any licensee may transfer radioactive material:
1. To the Department, after receiving prior approval from the Department;
 2. To the Department of Energy;
 3. To any person exempt from the rules in this Article to the extent permitted under the exemption;
 4. To any person authorized to receive radioactive material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or to any person otherwise authorized to receive radioactive material by the Federal Government or any agency of the Federal Government, the Department, any Agreement State or Licensing State; or
 5. As otherwise authorized by the Department in writing.
- C. Before transferring radioactive material to a specific licensee of the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State, or to a general licensee who is required to register with the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.
- D. The transferor shall use one or more of the following methods for the verification required by subsection (C):
1. The transferor shall possess, and read, a current copy of the transferee's specific license or registration certificate;
 2. The transferor shall possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
 3. For emergency shipments the transferor shall accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided the oral certification is confirmed in writing within 10 days;
 4. The transferor shall obtain information equivalent to that in subsection (D)(1) to (3) compiled by a reporting service from official records of the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State regarding the identity of any licensee and the scope and expiration date of any license, registration, or certificate; or



- 5. When none of the methods of verification described in subsections (D)(1) to (4) are readily available or when a transferor desires to verify that information received by one of the above methods is correct or up-to-date, the transferor shall obtain and record confirmation from the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State that the transferee is licensed to receive the radioactive material.
- E. A transferor shall prepare and transport radioactive material as prescribed in the provisions of 9 A.A.C. 7, Article 15.
- F. The Department shall approve an application for a specific license to initially transfer source material for use under R9-7-305, or equivalent regulations of the NRC or another Agreement State, if:
 - 1. The applicant satisfies the general requirements specified in R9-7-309; and
 - 2. The applicant submits adequate information on, and the Department approves, the methods to be used for quality control, labeling, and providing safety instructions to recipients.
- G. Each person licensed under this Section shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "RADIOACTIVE MATERIAL."
- H. Each person licensed under this Section shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.
- I. Each person licensed under this Section shall provide the information specified in subsections (I)(1) and (2) to each person to whom source material is transferred for use under R9-7-305 or equivalent provisions in the NRC or Agreement State regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:
 - 1. A copy of R9-7-305 and R9-7-318, or relevant equivalent regulations of the NRC or another Agreement State; and
 - 2. Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the source material.
- J. Each person licensed under 10 CFR 40.54 shall file a report with the Department that includes the following information: §
 - 1. The name, address, and license number of the person who transferred the source material;
 - 2. For each general licensee under R9-7-305 or equivalent Agreement State provisions to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and
 - 3. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.
- K. Each person licensed under this Section shall maintain all information that supports the reports required by this Section concerning each transfer to a general licensee for a period of one year after the event is included in a report to the Department, the NRC, or another Agreement State agency.

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

R9-7-448. Additional Reporting

- A. Each licensee shall notify the Department as soon as possible, but not later than four hours after the discovery of an event, and take immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed the limits specified in this Chapter or releases of licensed material that could exceed the limits specified in this Chapter. For purposes of this Section, event means a radiation accident involving a fire, explosion, gas release, or similar occurrence.
- B. Each licensee shall notify the Department within 24 hours after discovering any of the following events involving licensed material:
 - 1. A contamination event that:
 - a. Requires that anyone having access to the contaminated area be restricted for more than 24 hours by the imposition of additional radiological controls to prohibit entry into the area; and
 - b. Involves a quantity of radioactive material greater than five times the lowest annual limit on intake specified in Appendix B of this Article; and
 - c. Results in access to the contaminated area being restricted for a reason other than to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination.
 - 2. An event in which equipment is disabled or fails to function as designed when:
 - a. The equipment is part of a system designed to prevent releases exceeding the limits specified in this Chapter, to prevent exposures to radiation and radioactive materials exceeding limits specified in this Chapter, or to mitigate the consequences of an accident; and
 - b. The equipment performs a safety function; and
 - c. No redundant equipment is available and operable to perform the required safety function.
 - 3. An event that requires urgent medical treatment of an individual with radioactive contamination on the individual's clothing or body.
 - 4. A fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:
 - a. The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of this Article, and
 - b. The damage affects the integrity of the licensed material or its container.
- C. Each licensee shall make reports required by subsections (A) and (B) above by telephone to the Department. To the extent that the information is available at the time of notification, the information provided in these reports shall include:
 - 1. The callers's name, official title, and call back telephone number;
 - 2. A description of the event, including date and time;
 - 3. The exact location of the event;
 - 4. The isotopes, quantities, and chemical and physical form of the licensed material involved; and
 - 5. Any personnel radiation exposure data available.



- D. Each licensee who makes a report required by subsection (A) or (B) shall submit to the Department a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this subsection. The report shall include the following:
1. A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
 2. The exact location of the event;
 3. The isotopes, quantities, and chemical and physical form of the licensed material involved;
 4. Date and time of the event;
 5. Corrective actions taken or planned and the results of any evaluations or assessments; and
 6. The extent of personnel exposure to radiation or to radioactive materials without identification of each exposed individual by name.
- E. Each licensee that makes a report required by subsection (A) or (B) shall submit a written follow-up report to the Department within ~~60~~ 30 days after the initial report.

ARTICLE 15. TRANSPORTATION

R9-7-1507. Packaging Quality Assurance

- A. A licensee that transports radioactive material in the course of business or delivers radioactive material to a carrier for transport in a package for which a license, certificate of compliance, applicant for a certificate of compliance, or other approval has been issued by the Nuclear Regulatory Commission, or meets the applicable criteria (10 CFR 71, Subpart H, revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.), shall establish, maintain, and execute the quality assurance program specified in 10 CFR 71, Subpart H.
- B.** The transportation of radioactive material shall be in accordance with the requirements in 10 CFR Part 71, with the exception of the following sections: 71.2, 71.6, 71.11, 71.14(b), 71.19, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.85(a)-(c), 71.91(b), 71.99, 71.100, 71.101(c)(2), 71.101(g), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123 and 71.125. The provisions of this subsection apply to the transportation of radioactive material, or delivery of radioactive material to a carrier for transportation, regardless of whether or not the carrier is also subject to the rules and regulations of the NRC contained in 10 CFR Part 71 and other agencies of the United States having jurisdiction.
- ~~B.C.~~ In addition to the requirements in subsection (A) for a quality assurance program, a licensee shall verify by procedures such as checking or inspection, that deficiencies or defective material or equipment relative to the shipment of packages containing radioactive material are promptly identified and corrected.
- ~~C.D.~~ Before the first use of any Type B packaging, a licensee shall obtain approval of its quality assurance program by the Department.
- ~~D.E.~~ A licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a Type B package for shipment of radioactive material shall be maintained for three years after the package is used for a shipment.

R9-7-1510. Packaging

- A. A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.
1. This general license applies only to a licensee that has a quality assurance program approved by the Department as satisfying R9-7-1507;
 2. This general license applies only to a licensee that:
 - a. Has a copy of the license, certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
 - b. Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Article;
 - c. Before the licensee's first use of the package, submits in writing to the Department and to ATTN: Document Control Desk, Director, Division of Spent Fuel Storage and Transportation Fuel Management, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in 10 CFR 71.1(a), the licensee's name, license number, and the package identification number specified in the package approval;
 - ~~d. Each certificate holder shall maintain, for a period of three years after the life of the packaging to which they apply. Records identifying the packaging by model number, serial number and date of manufacture;~~
 - ~~e.d.~~ The licensee, certificate holder, and an applicant for a CoC, shall make available to the ~~Commission~~ Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated; and
 - ~~f.e.~~ The licensee, certificate holder, and an applicant for a CoC shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by 10 CFR 71.85; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
 3. This general license applies only when the package approval authorizes use of the package under this general license.
 4. For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of subsection (B).
- B. Type B packages.



1. Before the first use of any packaging for the shipment of licensed material, refer to 10 CFR 71.85 (a), (b) and (c).
 2. A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the “-85” designation in the identification number of the NRC certificate of compliance, may be used under the general license of subsection (A) with the following additional conditions:
 - a. Fabrication of the packaging is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 CFR 71.85(c) ~~(Revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~
 - b. A package that is used for a shipment to a location outside the United States is subject to multilateral approval as defined in 49 CFR 173.403 (Revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); and
 - c. A serial number which uniquely identifies each package which conforms to the approved design and is assigned to, and legibly and durably marked on, the outside of each package.
 3. A licensee may modify the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided:
 - a. The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73 ~~(Revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~
 - b. The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73 ~~(Revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~ and
 - c. The modifications to the package satisfy the requirements of this Section.
 4. The NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as applicable, and with the identification number suffix “-85” after receipt of an application demonstrating that the design meets the requirements of this Section.
 5. For purposes of this Section, package types are defined in 10 CFR 71.4, ~~revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.~~
- C. A general license is issued to any licensee of the Department to transport fissile material, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in 49 CFR 173 and 178 (Revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.), if the following requirements are met:
1. The licensee ~~shall maintain~~ maintains a quality assurance program approved by the Department as satisfying R9-7-1507-;
 2. The licensee ~~shall~~:
 - a. ~~Maintain~~ Maintains a copy of the specification; and
 - b. ~~Comply~~ Complies with the terms and conditions of the specification and the applicable requirements in 10 CFR 71, Subparts A, G, and H, ~~revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~
 3. The licensee ~~may does~~ not use the specification container for a shipment to a location outside the United States, except by multilateral approval, as defined in 49 CFR 173.403, revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments-;
 4. The general license applies only when a package’s contents:
 - a. Contain no more than a Type A quantity of radioactive material; and
 - b. Contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium-;
 5. The general license applies only to packages containing fissile material that are labeled with a CSI which:
 - a. Has been determined in accordance with subsection (E);
 - b. Has a value less than or equal to 10; and
 - c. For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance)-; and
 6. The CSI value ~~must meet~~ meets the following requirements:
 - a. The value for the CSI must be greater than or equal to the number calculated by the following equation: $CSI=10[(\text{grams of } 235U/X) + (\text{grams of } 235U/Y) + \text{grams of } 235U/Z]$;
 - b. The calculated CSI must be rounded up to the first decimal place;
 - c. The values of X, Y, and Z used in the CSI equation must be taken from Tables 71-1 or 71-2 as appropriate located in 10 CFR 71.22, ~~(revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~
 - d. If Table 71-2 is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and
 - e. Table 71-1 values for X, Y, and Z must be used to determine the CSI if:
 - i. Uranium-233 is present in the package;
 - ii. The mass of plutonium exceeds 1 percent of the mass of uranium-235;
 - iii. The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
 - iv. Substances having a moderating effectiveness (i.e., an average hydrogen density greater than H₂O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.
- D. Foreign packaging.



1. A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the Federal Department of Transportation as meeting the applicable requirements of 49 CFR 171.23, revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 2. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the applicable provisions of R9-7-1507.
 3. This general license applies only to:
 - a. Shipments made to or from locations outside the United States.
 - b. A licensee that:
 - i. Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and
 - ii. Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements in 10 CFR 71, Subparts A, G, and H, revised January 1, 2010, ~~incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.~~
- E.** Routine determination before each shipment of licensed material shall ensure that the package with its contents satisfies the applicable requirements of this Article and of the license. The licensee shall determine that:
1. The package is proper for the contents to be shipped;
 2. The package is in unimpaired physical condition except for superficial defects such as marks or dents;
 3. Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
 4. Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
 5. Any pressure relief device is operable and set in accordance with written procedures;
 6. The package has been loaded and closed in accordance with written procedures;
 7. For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
 8. Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of 10 CFR 71.45 ~~(revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~
 9. The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in DOT regulations in 49 CFR 173.443 (revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
 10. External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in 10 CFR 71.47 ~~(revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~ at any time during transportation; and
 11. Accessible package surface temperatures will not exceed the limits specified in 10 CFR 71.43(g) ~~(revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);~~ at any time during transportation.
- F.** Fissile material meeting the requirements of at least one of the conditions in subsections (F)(1) through (F)(6) are exempt from classification as fissile material and from the fissile material package standards of 10 CFR 71.55 and 71.59, but are subject to all other requirements of this part, except as noted.
1. Individual package containing 2 grams or less fissile material.
 2. Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.
 3. Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:
 - a. There is at least 2000 grams of solid nonfissile material for every gram of fissile material;
 - b. There is no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material; and
 - c. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass of solid nonfissile material.
 4. Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.
 5. Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a DOT Type A package.
 6. Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

R9-7-1514. Reserved Records

A. Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under R9-7-1515, showing where applicable:

1. Identification of the packaging by model number and serial number;
2. Verification that there are no significant defects in the packaging, as shipped;
3. Volume and identification of coolant;
4. Type and quantity of licensed material in each package, and the total quantity of each shipment;



- 5. For each item of irradiated fissile material:
 - a. Identification by model number and serial number;
 - b. Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - c. Any abnormal or unusual condition relevant to radiation safety;
- 6. Date of the shipment;
- 7. For fissile packages and for Type B packages, any special controls exercised;
- 8. Name and address of the transferee;
- 9. Address to which the shipment was made; and
- 10. Results of the determinations required by R9-7-1510(E) and by the conditions of the package approval.
- B.** The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this Chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.
- C.** The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by R9-7-1507; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
- D.** Each record required by this Chapter must be legible throughout the retention period specified by each Department regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

ARTICLE 19. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

R9-7-1907. Communications

Except where otherwise specified or covered under licensing program as provided in this chapter, all communications and reports concerning the rules in this Article may be sent as follows:

- 1. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
- 2. By hand delivery to the Department's offices at 4814 South 40th Street, Phoenix, Arizona 85040; or
- 3. Where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Electronic submissions shall be made in a manner that enables the Department to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Electronic submissions can be made by ~~visiting the Department's website at <http://www.azdhs.gov/licensing/radiation-regulatory/index.php> and selecting specific RAM (Radioactive Material) Staff contact information or by email to ram@azdhs.gov.~~

R9-7-1923. Access Authorization Program Requirements

- A.** Granting unescorted access authorization:
 - 1. Licensees shall implement the requirements of this Article for granting initial or reinstated unescorted access authorization.
 - 2. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by R9-7-1943(C) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.
- B.** Reviewing officials:
 - 1. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.
 - 2. Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification, to the ATTN: Bureau Chief, Bureau of Radiation Control, Arizona Department of Health Services, 4814 S. 40th Street, Phoenix, Arizona 85040, that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official shall be taken by a law enforcement agency, Federal or State agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with R9-7-1925(C).
 - 3. Reviewing officials shall be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling. Reviewing officials permitted unescorted access to category 1 or category 2 quantities of radioactive materials shall receive appropriate radiation safety training initially and at a frequency not to exceed 12 months. The licensee shall maintain records of the initial and refresher training for three years from the date of training for Department review.
 - 4. Reviewing officials cannot approve other individuals to act as reviewing officials.
 - 5. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:
 - a. The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or
 - b. The individual is subject to a category listed in R9-7-1929(A).
- C.** Informed consent:



1. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of R9-7-1925(B). A signed consent shall be obtained prior to any reinvestigation.
 2. The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:
 - a. If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and
 - b. The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.
- D. Personal history disclosure:** Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this Article is sufficient cause for denial or termination of unescorted access.
- E. Determination basis:**
1. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this Article.
 2. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this Article and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.
 3. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.
 4. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.
 5. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.
- F. Procedures:** Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures shall include provisions for the notification of individuals who are denied unescorted access. The procedures shall include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures shall contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.
- G. Right to correct and complete information:**
1. Prior to any final adverse determination, licensees shall provide each individual subject to this Article with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of 1 year from the date of the notification.
 2. If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees shall provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.
- H. Records:**
1. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.
 2. The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If a portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.
 3. The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.

R9-7-1927. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material

A. General performance objective and requirements:

1. Except for those individuals listed in R9-7-1929 and those individuals grandfathered under R9-7-1925(B), each licensee subject to the provisions of this Article shall fingerprint each individual who is to be permitted unescorted access to category 1 or cate-



gory 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the ~~Department~~ NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.

- 2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
- 3. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:
 - a. The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and
 - b. The previous access was terminated under favorable conditions.
- 4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this Article, the Fingerprint Orders, or 10 CFR part 73, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of R9-7-1931(C).
- 5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

B. Prohibitions:

- 1. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:
 - a. An arrest more than 1 year old for which there is no information of the disposition of the case; or
 - b. An arrest that resulted in dismissal of the charge or an acquittal.
- 2. Licensees may not use information received from a criminal history records check obtained under this section in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

C. Procedures for processing of fingerprint checks:

- 1. For the purpose of complying with this Article, licensees shall use an appropriate method listed in 10 CFR 37.7, revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; to submit to the U.S. Nuclear Regulatory Commission, ~~Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by email to FORMS.Resource@nrc.gov emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <http://www.nrc.gov/site-help/e-submittals.html>. Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-8B20, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <https://www.nrc.gov/security/chp.html>.~~
- 2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the ~~Security Branch, Division of Facilities and Security at 301-492-3534~~ Division of Physical and Cyber Security Policy by e-mailing Crimhist.Resource@NRC.gov.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the ~~Electronic Submittals page at <http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems. Licensee Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for "How do I determine how much to pay for the request?"~~.)
- 3. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

R9-7-1977. Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

Each licensee shall provide advance notification to the Department and the governor of a State, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

- 1. Procedures for submitting advance notification:
 - a. The notification shall be made to the Department and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees and participating Tribes is available on the NRC's website at <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, Security, State, and Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-



0001. ~~Notifications to the Department shall be to the Department Director or their designee.~~ The notification to the Department may be made by email to ram@azdhs.gov or by fax to (602) 437-0705.
- b. A notification delivered by mail shall be postmarked at least 7 days before transport of the shipment commences at the shipping facility.
 - c. A notification delivered by any means other than mail shall reach the Department at least 4 days before the transport of the shipment commences and shall reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.
2. Information to be furnished in advance notification of shipment:
Each advance notification of shipment of category 1 quantities of radioactive material shall contain the following information, if available at the time of notification:
- a. The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;
 - b. The license numbers of the shipper and receiver;
 - c. A description of the radioactive material contained in the shipment, including the radionuclides and quantity;
 - d. The point of origin of the shipment and the estimated time and date that shipment will commence;
 - e. The estimated time and date that the shipment is expected to enter each State along the route;
 - f. The estimated time and date of arrival of the shipment at the destination; and
 - g. A point of contact, with a telephone number, for current shipment information.
3. Revision notice:
- a. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the Department ~~Director~~ at the contact information available in R9-7-1907.
 - b. A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with subsections (B) and (C)(1). The licensee shall also immediately notify the Department ~~Director~~ at the contact information available in R9-7-1907 of any such changes.
4. Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the Department Director at the contact information available in R9-7-1907. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.
5. Records: The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.
6. Protection of information: State officials, State employees, and other individuals, whether or not licensees of the Department, the NRC, or an Agreement State, who receive schedule information of the kind specified in this Section shall protect that information against unauthorized disclosure as specified in R9-7-1943(D) of this Article.



NOTICES OF AGENCY OMBUDSMAN

The Administrative Procedure Act requires the publication of Notices of Agency Ombudsman. Agencies shall publish annually in the *Register* the name or names of those employees who are designated by the agency to assist members of the public or regulated community in seeking information or assistance from the agency. (A.R.S. § 41-1006)

NOTICE OF AGENCY OMBUDSMAN

[M20-15]

1. **The agency name:** Early Childhood Development and Health Board/First Things First
2. **The ombudsman's:**
 - a. **Name:** Liz Barker Alvarez
 - b. **Title:** Chief Policy Advisor
 - c. **Specific agency division:** Executive Office
3. **The ombudsman's office address to include the city, state and zip code:**

Address: First Things First
4000 N. Central Ave., Suite 800
Phoenix, AZ 85012
4. **The ombudsman's telephone number, fax number and email address, if available:**

Telephone: (602) 771-5063
Fax: (602) 274-1247
E-mail: lbarker@firstthingsfirst.org



GOVERNOR EXECUTIVE ORDER

Executive Order 2020-02 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.

EXECUTIVE ORDER 2020-02

Moratorium on Rulemaking to Promote Job Creation and Economic Development; Implementation of Licensing Reform Policies

[M20-01]

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, 2018 and 2019; and

WHEREAS, the State of Arizona eliminated or improved 637 burdensome regulations in 2019 and a total of 2,289 needless regulations have been eliminated or improved since 2015; and

WHEREAS, estimates show these eliminations saved job creators \$53.9 million in operating costs in 2019 and a total of over \$134.3 million in savings since 2015; and

WHEREAS, in 2019, for every one new necessary rule added to the Administrative Code, five have been repealed or improved; and

WHEREAS, approximately 354,000 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 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 that submits a rulemaking request pursuant to this Order shall recommend for consideration by the Office of the Governor at least *three* existing rules to eliminate for every *one* additional rule requested by the agency.



3. A State agency that submits a rulemaking exemption request pursuant to this Order shall include with their request an analysis of how small businesses may be impacted by any newly proposed rules or rule modifications.
4. 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 the Arizona Revised Statutes or Arizona Administrative Code. Any material that is not specifically authorized must be removed immediately.
5. A State agency that issues occupational or professional licenses shall prominently post on the agency’s website landing page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using these policies. State agencies should provide information that applies to all applicants, but have a designated area on such landing page that includes licensing information specifically for military spouses, active duty service members and veterans and all policies that make it easier for these applicant groups to receive their license. Examples of reduced licensing burdens include universal recognition of out-of-state licenses, availability of temporary licenses, fee waivers, exam exemptions and/or allowing an applicant to substitute military education or experience for licensing requirements. A landing page feature may link to an internal agency web page with more information, if necessary. All information must be easy to locate and written in clear and concise language.
6. All state agencies that are required to issue occupational or professional licenses by universal recognition (established by section 32-4302, Arizona Revised Statutes) must track all applications received for this license type. Before any agency denies a professional or occupational license applied for under section 32-4302, Arizona Revised Statutes, the agency shall submit the application and justification for denial to the Office of the Governor for review before any official action is taken by the agency. The Office of the Governor should be notified of any required timeframes, whether in statute or rule, for approval or denial of the license by the agency.
7. 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.
8. 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 13th day of January in the Year Two Thousand and Twenty and of the Independence of the United States of America the Year Two Hundred and Forty-Fourth.

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

2020 Arizona Administrative Register Volume 26 Page Guide

Issue 1, Jan. 3, 2020.....1-44	Issue 2, Jan. 10, 2020.....45-96	Issue 3, Jan. 17, 2020.....97-124
Issue 4, Jan. 24, 2020.....125-182	Issue 5, Jan. 31, 2020.....183-218	Issue 6, Feb. 7, 2020.....219-258
Issue 7, Feb. 14, 2020.....259-304	Issue 8, Feb. 21, 2020.....305-330	Issue 9, Feb. 28, 2020.....331-366
Issue 10, March 6, 2020.....367-396		

RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and 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 10 OF VOLUME 26.

Agriculture, Department of - Pest Management Division

R3-8-103. PEM-379

Accountancy, Board of

R4-1-101. FM-339
 R4-1-104. FM-339
 R4-1-115.03. FM-339
 R4-1-226.01. FM-339
 R4-1-228. FR-339;
 FN-339
 R4-1-229. FM-339
 R4-1-341. FM-339
 R4-1-344. FM-339
 R4-1-345. FM-339
 R4-1-346. FM-339
 R4-1-453. FM-339
 R4-1-454. FM-339
 R4-1-455. FM-339
 R4-1-455.01. FM-339
 R4-1-456. FM-339

Child Safety, Department of - Permanency and Support Services

R21-5-201. FM-241
 R21-5-205. FM-241

Clean Elections Commission, Citizens

R2-20-104. TM-114
 R2-20-113. FM-335
 R2-20-209. FM-111
 R2-20-701. PM-101
 R2-20-702. FM-309
 R2-20-702.01. PM-102
 R2-20-703.01. PM-104
 R2-20-704. FM-337

Corporation Commission - Transportation

R14-5-202. PM-11
 R14-5-204. PM-11

Dispensing Opticians, Board of

R4-20-120. FM-202

Economic Security, Department of - Child Support Enforcement

R6-7-103. FM-15

Economic Security, Department of - Developmental Disabilities

R6-6-401. P#-5; PN-5
 R6-6-402. P#-5; PM-5
 R6-6-403. PR-5; P#-5
 R6-6-404. PM-5
 R6-6-405. P#-5; PM-5

Economic Security, Department of - Food Stamps Program

R6-14-301. FN-263
 R6-14-302. FN-263
 R6-14-303. FN-263
 R6-14-304. FN-263
 R6-14-305. FN-263
 R6-14-306. FN-263
 R6-14-307. FN-263
 R6-14-308. FN-263
 R6-14-309. FN-263
 R6-14-310. FN-263
 R6-14-311. FN-263
 R6-14-401. FN-263
 R6-14-402. FN-263
 R6-14-403. FN-263
 R6-14-404. FN-263
 R6-14-405. FN-263
 R6-14-406. FN-263
 R6-14-407. FN-263
 R6-14-408. FN-263
 R6-14-409. FN-263
 R6-14-410. FN-263
 R6-14-411. FN-263
 R6-14-412. FN-263
 R6-14-413. FN-263
 R6-14-414. FN-263
 R6-14-415. FN-263
 R6-14-416. FN-263
 R6-14-417. FN-263
 R6-14-501. FN-263
 R6-14-502. FN-263
 R6-14-503. FN-263

R6-14-504. FN-263
 R6-14-505. FN-263
 R6-14-506. FN-263
 R6-14-507. FN-263

Education, State Board of

R7-2-306. FXM-66
 R7-2-604. FXM-66
 R7-2-619. FXM-314
 R7-2-1309. FXN-66

Financial Institutions, Department of

R20-4-1102. EXP-382

Health Services, Department of - Health Care Institutions: Licensing

R9-10-109. PEM-49
 R9-10-318. PEM-49
 R9-10-501. XM-72
 R9-10-502. XM-72
 R9-10-503. XM-72
 R9-10-506. XM-72
 R9-10-508. XM-72
 R9-10-510. XM-72
 R9-10-512. XM-72
 R9-10-514. XM-72
 R9-10-516. XM-72
 R9-10-523. XM-72
 R9-10-525. XM-72
 R9-10-702. PEM-49
 R9-10-703. PEM-49
 R9-10-706. PEM-49
 R9-10-707. PEM-49
 R9-10-708. PEM-49
 R9-10-712. PEM-49
 R9-10-716. PEM-49
 R9-10-722. PEM-49

Health Services, Department of - Occupational Licensing

R9-16-201. PEM-129
 R9-16-202. PER-129;
 PEN-129



R9-16-203.	PER-129; PEN-129	R9-16-311.	PER-148; PEN-148	R4-23-408.	FM-223
R9-16-204.	PER-129; PEN-129	R9-16-312.	PER-148; PEN-148	R4-23-411.	FM-223
R9-16-205.	PER-129; PEN-129	R9-16-313.	PER-148; PEN-148	R4-23-607.	FM-223
R9-16-206.	PER-129; PEN-129	R9-16-314.	PER-148; PEN-148	R4-23-801.	FR-223
R9-16-207.	PER-129; PEN-129	R9-16-315.	PER-148; PEN-148	R4-23-1103.	FM-223
R9-16-208.	PER-129; PEN-129	Table 3.1.	PER-148	R4-23-1106.	FM-223
R9-16-209.	PER-129; PEN-129	R9-16-316.	PER-148; PEN-148	Psychologist Examiners, Board of	
Table 2.1.	PER-129	Table 3.1.	PER-148	R4-26-203.	PM-187
R9-16-210.	PER-129; PEN-129	R9-16-317.	PER-148	R4-26-203.01.	PM-187
R9-16-211.	PER-129; PEN-129	R9-16-501.	PER-148	R4-26-205.	PM-187
R9-16-212.	PER-129; PEN-129	R9-16-502.	PER-148	R4-26-207.	PM-187
R9-16-213.	PER-129; PEN-129	R9-16-503.	PER-148	Table 1.	PM-187
R9-16-214.	PER-129; PEN-129	R9-16-504.	PER-148	R4-26-401.	PM-187
Table 2.1.	PER-129	R9-16-505.	PER-165; PEN-165	R4-26-403.	PM-187
R9-16-215.	PER-129	Table 5.1.	PER-165	R4-26-404.1.	PM-187
R9-16-216.	PER-129	R9-16-506.	PER-165; PEN-165	R4-26-404.2.	PM-187
R9-16-301.	PER-148	Table 5.1.	PER-165	R4-26-406.	PM-187
R9-16-302.	PER-148; PEN-148	R9-16-507.	PER-165	R4-26-407.	PR-187
R9-16-303.	PER-148; PEN-148	R9-16-508.	PER-165	R4-26-408.	PM-187
R9-16-304.	PER-148; PEN-148	R9-16-614.	PER-165	R4-26-415.	PM-187
R9-16-305.	PER-148; PEN-148	R9-16-623.	PER-165	Retirement System Board, State	
R9-16-306.	PER-148; PEN-148	Industrial Commission of Arizona		R2-8-122.	FM-371
R9-16-307.	PER-148; PEN-148	R20-5-507.	FM-311	Secretary of State, Office of the	
R9-16-308.	PER-148; PEN-148	R20-5-601.	FM-373	R2-12-1201.	F#-106; FN-106
R9-16-309.	PER-148; PEN-148	R20-5-601.01.	EXP-290	R2-12-1202.	F#-106; FM-106
R9-16-310.	PER-148; PEN-148	R20-5-602.	FM-373	R2-12-1203.	F#-106
		R20-5-629.	FM-373	R2-12-1204.	F#-106; FM-106
		Land Department, State		R2-12-1205.	F#-106; FM-106
		R12-5-2105.	EXP-290	R2-12-1206.	F#-106; FM-106
		R12-5-2106.	EXP-290	R2-12-1207.	F#-106; FM-106
		Pharmacy, Board of		R2-12-1208.	FR-106; F#-106
		R4-23-110.	FM-223	R2-12-1209.	FR-106
		R4-23-204.	FM-223	Transportation, Department of - Highways	
		R4-23-205.	FM-223	R17-3-801.	EXP-382
		R4-23-407.	FM-223	R17-3-802.	EXP-382
				R17-3-803.	EXP-382
				R17-3-804.	EXP-382
				R17-3-805.	EXP-382
				R17-3-806.	EXP-382
				R17-3-808.	EXP-382

OTHER NOTICES AND PUBLIC RECORDS INDEX

Other legal notices required to be published under the Administrative Procedure Act, such as Rulemaking Docket Openings, are included in this Index by volume page number. Notices of Agency Ombudsman, Substantive Policy Statements, Proposed Delegation Agreements, and other applicable public records as required by law are also listed in this Index by volume page number.

THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 10 OF VOLUME 26.

Agency Ombudsman, Notices of

- Child Safety, Department of; p. 384
- Chiropractic Examiners, Board of; p. 173
- Dental Examiners, Board of; p. 384
- Osteopathic Examiners in Medicine and Surgery, Board of; p. 21
- Public Safety, Department of; p. 21

Docket Opening, Notices of Rulemaking

- Agriculture, Department of - Pest Management Division; 3 A.A.C. 8; p. 383
- Clean Elections Commission, Citizens; 2 A.A.C. 20; pp. 115-116
- Corporation Commission - Transportation; 14 A.A.C. 5; p. 19

- Economic Security, Department of - Developmental Disabilities; 6 A.A.C. 6; p. 17
- Environmental Quality, Department of - Hazardous Waste Management; 18 A.A.C. 8; p. 318
- Health Services, Department of - Administration; 9 A.A.C. 1; pp. 206-207

Health Services, Department of - Communicable Diseases and Infestations; 9 A.A.C. 6; p. 291
Health Services, Department of - Food, Recreational, and Institutional Sanitation; 9 A.A.C. 8; p. 356
Health Services, Department of - Health Care Institutions: Licensing; 9 A.A.C. 10; p. 317
Health Services, Department of - Radiation Control; 9 A.A.C. 7; pp. 355-356
Nursing Care Institution Administrators and Assisted Living Facility Managers, Board of Examiners for; 4 A.A.C. 33; p. 17
Psychologist Examiners, Board of; 4 A.A.C. 26; pp. 205-206
Public Safety, Department of - Tow Trucks; 13 A.A.C. 3; p. 18

Governor's Office

Executive Order 2019-01: pp. 23-24

Executive Order 2020-02: pp. 174-175

Governor's Regulatory Review Council

Notices of Action Taken at Monthly Meetings: pp. 217, 257-258, 302-303

Public Information, Notices of

Health Services, Department of; pp. 246-247

Substantive Policy Statement, Notices of

Contractors, Registrar of; p. 319
Finance Authority, Water Infrastructure; pp. 319-321
State Lottery, Arizona; p. 117



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	3/1	2/1	4/1	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/2	2/2	4/2	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/3	2/3	4/3	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/4	2/4	4/4	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/5	2/5	4/5	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/6	2/6	4/6	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/7	2/7	4/7	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/8	2/8	4/8	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/9	2/9	4/9	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/10	2/10	4/10	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/11	2/11	4/11	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/12	2/12	4/12	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/13	2/13	4/13	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/14	2/14	4/14	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/15	2/15	4/15	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/16	2/16	4/16	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/17	2/17	4/17	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/18	2/18	4/18	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/19	2/19	4/19	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/20	2/20	4/20	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/21	2/21	4/21	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/22	2/22	4/22	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/23	2/23	4/23	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/24	2/24	4/24	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/25	2/25	4/25	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/26	2/26	4/26	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/27	2/27	4/27	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/28	2/28	4/28	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/29	2/29	4/29	3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/30			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	3/31			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	1/30/21
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1/21	12/2	1/31/21
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2/21	12/3	2/1/21
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3/21	12/4	2/2/21
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4/21	12/5	2/3/21
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5/21	12/6	2/4/21
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6/21	12/7	2/5/21
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7/21	12/8	2/6/21
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8/21	12/9	2/7/21
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9/21	12/10	2/8/21
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10/21	12/11	2/9/21
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11/21	12/12	2/10/21
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12/21	12/13	2/11/21
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13/21	12/14	2/12/21
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14/21	12/15	2/13/21
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15/21	12/16	2/14/21
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16/21	12/17	2/15/21
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17/21	12/18	2/16/21
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18/21	12/19	2/17/21
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19/21	12/20	2/18/21
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20/21	12/21	2/19/21
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21/21	12/22	2/20/21
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22/21	12/23	2/21/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23/21	12/24	2/22/21
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24/21	12/25	2/23/21
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25/21	12/26	2/24/21
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26/21	12/27	2/25/21
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27/21	12/28	2/26/21
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28/21	12/29	2/27/21
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29/21	12/30	2/28/21
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1/21



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.

Deadline Date (paper only) Friday, 5:00 p.m.	Register Publication Date	Oral Proceeding may be scheduled on or after
November 15, 2019	December 6, 2019	January 6, 2020
November 22, 2019	December 13, 2019	January 13, 2020
November 29, 2019	December 20, 2019	January 21, 2020
December 6, 2019	December 27, 2019	January 27, 2020
December 13, 2019	January 3, 2020	February 3, 2020
December 20, 2019	January 10, 2020	February 10, 2020
December 27, 2019	January 17, 2020	February 17, 2020
January 3, 2020	January 24, 2020	February 24, 2020
January 10, 2020	January 31, 2020	March 2, 2020
January 17, 2020	February 7, 2020	March 9, 2020
January 24, 2020	February 14, 2020	March 16, 2020
January 31, 2020	February 21, 2020	March 23, 2020
February 7, 2020	February 28, 2020	March 30, 2020
February 14, 2020	March 6, 2020	April 6, 2020
February 21, 2020	March 13, 2020	April 13, 2020
February 28, 2020	March 20, 2020	April 20, 2020
March 6, 2020	March 27, 2020	April 27, 2020
March 13, 2020	April 3, 2020	May 4, 2020
March 20, 2020	April 10, 2020	May 11, 2020
March 27, 2020	April 17, 2020	May 18, 2020
April 3, 2020	April 24, 2020	May 26, 2020



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 under A.R.S. § 41-1013(B)(15).

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 305, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit <http://grrc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2019/2020 (MEETING DATES ARE SUBJECT TO CHANGE)

[M19-118]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<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
<i>Tuesday</i> January 21, 2020	<i>Tuesday</i> February 18, 2020	<i>Tuesday</i> February 25, 2020	<i>Tuesday</i> March 3, 2020
<i>Tuesday</i> February 18, 2020	<i>Tuesday</i> March 24, 2020	<i>Tuesday</i> March 31, 2020	<i>Tuesday</i> April 7, 2020
<i>Tuesday</i> March 24, 2020	<i>Tuesday</i> April 21, 2020	<i>Tuesday</i> April 28, 2020	<i>Tuesday</i> May 5, 2020
<i>Tuesday</i> April 21, 2020	<i>Tuesday</i> May 19, 2020	Wednesday May 27, 2020	<i>Tuesday</i> June 2, 2020
<i>Tuesday</i> May 19, 2020	<i>Tuesday</i> June 23, 2020	<i>Tuesday</i> June 30, 2020	<i>Tuesday</i> July 7, 2020
<i>Tuesday</i> June 23, 2020	<i>Tuesday</i> July 21, 2020	<i>Tuesday</i> July 28, 2020	<i>Tuesday</i> August 4, 2020
<i>Tuesday</i> July 21, 2020	<i>Tuesday</i> August 18, 2020	<i>Tuesday</i> August 25, 2020	<i>Tuesday</i> September 1, 2020
<i>Tuesday</i> August 18, 2020	<i>Tuesday</i> September 22, 2020	<i>Tuesday</i> September 29, 2020	<i>Tuesday</i> October 6, 2020
<i>Tuesday</i> September 22, 2020	<i>Tuesday</i> October 20, 2020	<i>Tuesday</i> October 27, 2020	<i>Tuesday</i> November 3, 2020
<i>Tuesday</i> October 20, 2020	<i>Tuesday</i> November 17, 2020	<i>Tuesday</i> November 24, 2020	<i>Tuesday</i> December 1, 2020
<i>Tuesday</i> November 17, 2020	<i>Tuesday</i> December 22, 2020	<i>Tuesday</i> December 29, 2020	<i>Tuesday</i> January 5, 2021
<i>Tuesday</i> December 29, 2020	<i>Tuesday</i> January 19, 2021	<i>Tuesday</i> January 26, 2021	<i>Tuesday</i> February 2, 2021

* 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.