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Arizona Administrative REGISTER

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From the Publisher

ABOUT THIS PUBLICATION

The authenticated pdf of the *Administrative Register* (A.A.R.) posted on the Arizona Secretary of State's website is the official published version for rulemaking activity in the state of Arizona.

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

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

In addition, the *Register* contains notices of rules terminated by the agency and rules that have expired.

ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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

New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

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

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

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

LEGAL CITATIONS AND FILING NUMBERS

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

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

Arizona Administrative Register

Vol. 26 Issue 22

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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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The Office of the Secretary of State is an equal opportunity employer.

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.

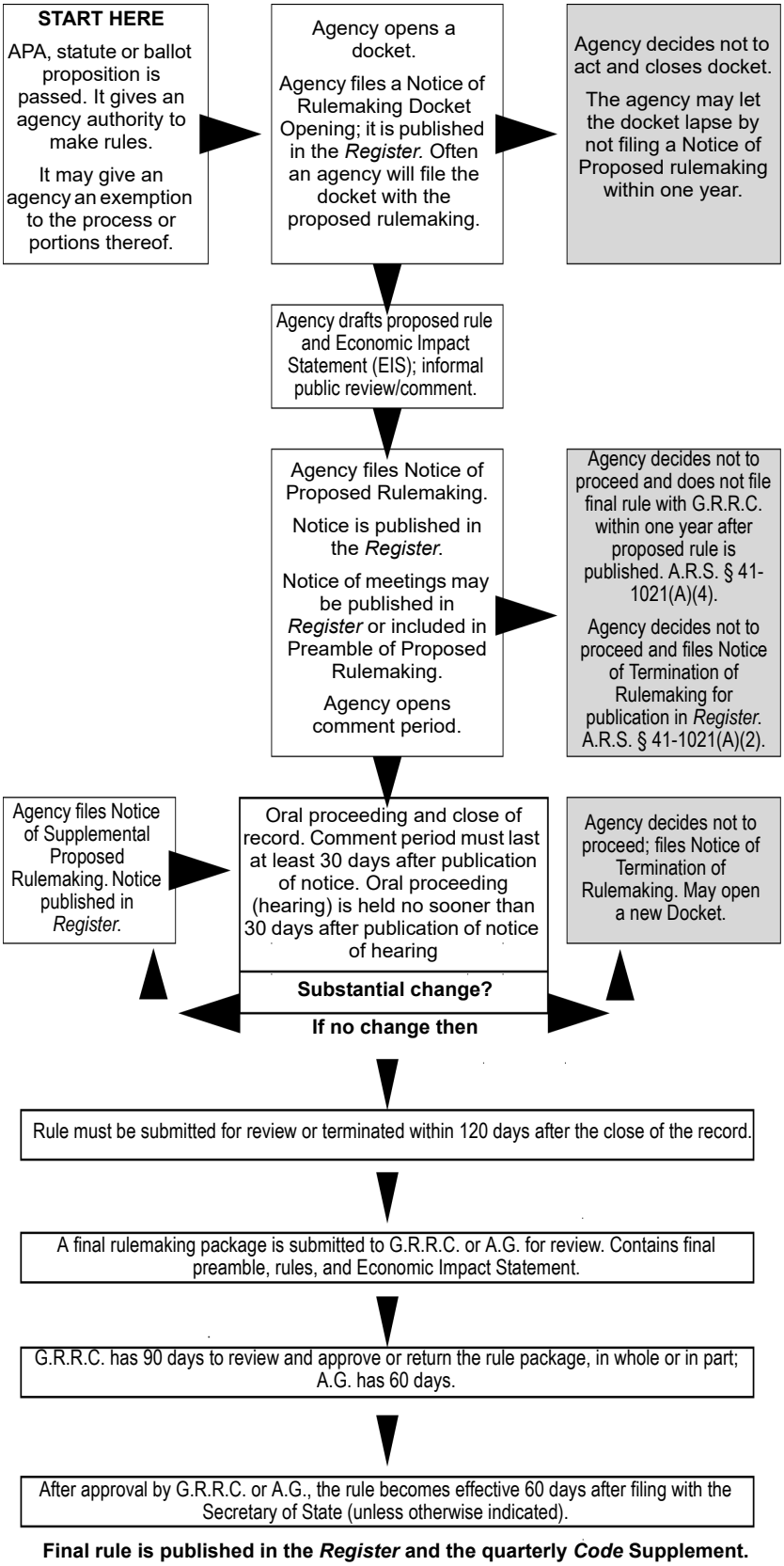
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

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 complied 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 FINAL RULEMAKING

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

The final published notice includes a preamble and text of the rules as filed by the agency. Economic Impact Statements are not published.

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

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION COMMERCIAL PROGRAMS

[R20-84]

PREAMBLE

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

Article, Part, or Section Affected (as applicable)	Rulemaking Action
R17-5-601	Amend
R17-5-603	Amend
R17-5-604	Amend
R17-5-609	Amend
R17-5-610	Amend
R17-5-612	Amend
R17-5-614	Repeal
R17-5-614	New Section
R17-5-616	Amend
R17-5-621	Amend

2. Citations to the agency's statutory authority to include both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 28-366, 28-1462, and 28-1465

Implementing statutes: A.R.S. §§ 28-1301, 28-1461 through 28-1469

3. The effective date of the rules:

July 5, 2020

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

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

Notice of Rulemaking Docket Opening: 25 A.A.R. 3293, November 8, 2019

Notice of Proposed Rulemaking: 25 A.A.R. 3691, December 27, 2019

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

Name: Jane McVay, Senior Rules Analyst

Address: Department of Transportation
206 S. 17th Ave., MD 180A
Phoenix, AZ 85007

Telephone: (602) 712-4279

E-mail: jmcvay@azdot.gov

Website: Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at http://azdot.gov/about/government-relations/contact-us-government-relations.

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

The Department received approval to initiate this rulemaking from Ben Blink in the Governor's Office on September 20, 2019.

These rules implement changes recommended in a One-Year Rule Review Report approved by the Governor's Regulatory Review Council on August 6, 2019, that improve, clarify, and update the ignition interlock program. The Department filed exempt rules with the Office of Secretary of State that became effective on July 1, 2018, to implement legislative changes contained in Laws 2018, Chapter 105, and Laws 2017, Chapter 331, to the operation of the ignition interlock program. The rules included establishing an ignition interlock device installation fee that is payable by an ignition interlock user when an ignition interlock is installed on a user's vehicle following a driving under the influence conviction. In order to comply with A.R.S. § 41-1008(E), the Department is required to go through the regular rulemaking process to continue charging this fee. The 2018 rules required that a certified ignition interlock device installed after July 1, 2018 must be capable of wireless transmission, have a camera, and meet additional requirements. At that time ignition interlock users with previously installed devices that operated properly were grandfathered in. These rules require those users to return to an ignition interlock service provider by October 1, 2020 to install a new device that meets all the rule requirements. The rules clarify that device installation reports must be submitted to the Department within 24 hours, distinguish device accuracy from calibration, increase device accuracy, expand early recall to include any four reportable violations within a 90-day continuous period, correct a citation error, specify that the camera in an ignition interlock device shall take a digital image of the driver, modify the procedure for collection of civil penalties, and make other clarifying changes and program improvements. The rules also clarify that a missed rolling retest occurs while a person is operating the vehicle. The rules provide that the Department will determine the payment method used by an Ignition Interlock Service Provider (IISP) to transfer the installation fees to the Department.

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

The Department did not review or rely on any studies relating to this rulemaking.

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

Not applicable

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

Clarification of the improper reporting definition and the requirement for an ignition interlock service provider to send the Department notification of a device installation within 24 hours, are expected to result in more accurate and timely reporting of individual ignition interlock activity, which benefits ignition interlock users.

A.R.S. § 28-1462(H) authorized the Department to establish an ignition interlock device installation fee, in an amount determined by the Director. The exempt rules that were effective July 1, 2018 established an ignition interlock device installation fee of $20 payable by an ignition interlock user beginning July 1, 2018, when a person installs an ignition interlock device on a user's vehicle. The Department estimates that this fee will be paid to a user's ignition interlock service provider by approximately 20,000 Arizona drivers annually, who have an ignition interlock requirement. The fee is transmitted monthly to the Department and is estimated to generate approximately $400,000 annually, which funds the administrative costs of the ignition interlock program. The ignition interlock device installation fee is the only fee that an ignition interlock user pays to the Department. The fee was established to impose the least cost possible for users to fully support the ignition interlock program. In order to continue to charge this fee for more than two years, the Department is seeking approval of the fee through regular rulemaking.

The Department will not hire any new employees to implement the rule changes and has not notified JLBC.
Beginning July 1, 2018, for any new installation of an ignition interlock device or device replacement, an ignition interlock service provider must install a device that has global positioning software, wireless capability, and contains a camera. Users whose device was installed before July 1, 2018 were not required to have a new device installed as long as a user's device operated properly and met federal requirements. These rules require those users to obtain an updated device from the user's ignition interlock service provider by October 1, 2020 that meets all the rule requirements, and to pay the $20 ignition interlock device installation fee. The rules also make other clarifying changes to improve the rules. The Department anticipates that the impact of the rules on manufacturers may range from minimal to substantial. Although the number of participants with old ignition interlock devices has dropped as participants fulfill their ignition interlock requirement, about 1,500 participants had an old device as of December 2019. Many of these participants had ignition interlock violations which extended their ignition interlock period. Five manufacturers had more than 200 but less than 400 devices in use, six manufacturers had less than 100 old devices in use, and one manufacturer had no old devices in use. Manufacturers will need to make available an adequate number of ignition interlock devices to ignition interlock service providers that meet the device requirements in the rules to replace old devices. The manufacturer will bear the cost of the new devices and may either absorb those costs or pass on the cost to ignition interlock users in fee increases for ignition interlock services. The new devices have cameras that capture digital images of ignition interlock user activity, allowing verification of the person blowing into the device and performing other interlock actions. The reporting clarification is expected to require review by the manufacturers to ensure accurate reporting of ignition interlock user device activity to the Department, which benefits ignition interlock users. This may require a manufacturer to add staffing or increase employee and employee-related costs. The rules require each user to receive additional information about the proper way to take a rolling retest. An ignition interlock device user who has four reportable violations over a 90-day continuous period is required to go to the user's service center within 72 hours for a violation reset and for information about how to prevent violations. In summary, the Department believes that the rule changes benefit ignition interlock users and the general public, and that these program changes and public safety benefits greatly outweigh the cost to ignition interlock users.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and final rulemaking:

The final rulemaking includes these non-substantive changes to conform the language to the *Administrative Code*, to clarify the rules, make grammatical changes, and ensure that the rules are clear and understandable:

In R17-5-603(E)(1), after "Anticircumvention provisions," insert "on the device."

In R17-5-609(I), after "the termination of the," strike "~~person'~~", insert "person's."

In R17-5-609(L), strike "~~n~~," insert "manufacturer."

In R17-5-609(O), after "which", strike "~~can~~", insert "may."

In R17-5-610(K)(4), at the end of the sentence, strike "~~retest~~", insert "retests."

In R17-5-601 in the definition of missed rolling retest, after "substantiated breath sample" insert "while operating the vehicle," to clarify that a missed rolling retest occurs when a person is operating a motor vehicle.

In R17-5-603(D), the rule is amended to include device calibration with an accuracy within plus or minus 0.005g/210L of the reference value, calibration using a specific reference value, and that the device must be accompanied by a Certificate of Analysis.

In R17-5-604(E), the rule is amended to strike "~~promptly~~" and require a person with an ignition interlock device installed before July 1, 2018 to return to the person's IISP by October 1, 2020 to obtain an updated device.

In R17-5-610 in the definition of early recall, the language was amended to read: "or any four valid reportable violations within a continuous 90-day period."

11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:

The Department conducted an oral proceeding on the rules and did not receive any oral comments on the rules. The close of record was on February 4, 2020. The Department received comments from two individuals, which are listed below with the Department's response.

Rule Section/Comment	Department Response
1. R17-5-601: Define dry gas that conforms to the model specifications for calibrating units for breath alcohol testers published by the National Highway Traffic Safety Administration (NHTSA). Modify definition of reference value to mean the known and correct alcohol concentration of dry gas. Commenter supports ensuring Arizona dry gas standards have been evaluated by the U.S. Department of Transportation Volpe National Transportation Systems Center (VNTSC) and meet the NHTSA model specifications.	1. This change requires all manufacturers with a certified ignition interlock device to use dry gas to calibrate breath alcohol testers and requires the Department to incorporate by reference the NHTSA Model Specifications for Breath Alcohol Testers. This change would require all IISP's to have gas tanks and use dry gas to calibrate breath alcohol testers. This impacts one Ignition Interlock Service Provider (IISP) with 257 clients at 21 service centers, has cost implications for the IISP to purchase gas tanks for each service center, and requires training staff to calibrate breath alcohol testers using dry gas. These costs may be passed on to ignition interlock users. For these reasons, the Department does not recommend changing this rule at this time.
2. R17-5-601: Modify early recall definition to provide that any four valid reportable violations occurring within a 90-day period beginning on the initial date of installation of the device require a person to return to a service center within 72 hours. The commenter notes that accuracy check appointments can vary from 77 to 90 days, which may allow unintended variation in the accumulation of violations.	2. The Department agrees that the calibration time frame varies among users. The proposed language would not be applicable to an ignition interlock user who has had a certified ignition interlock device (CIID) for some time since the 90-day period begins on the initial installation date. The Department has amended the early recall definition to provide that any four valid reportable violations that occur within a continuous 90-day period require a person to return to a service center within 72 hours.
3. R17-5-601: Modify early recall definition to provide that the four valid reportable violations are between calibrations. Commenter suggests substitution of calibration for accuracy check appointments because appointments may be rescheduled or cancelled.	3. Some IISP's require their ignition interlock customers to calibrate CIID's at 30-day intervals, and other IISP's require their customers to calibrate CIID's at intervals up to 90 days, so this change would not be fair to users with variable calibration periods. The Department has amended the early recall definition to provide that any four valid reportable violations that occur within a continuous 90-day period require a person to return to a service center within 72 hours.
4. R17-5-601: Delete the definition of emergency bypass. Authority to operate a vehicle not equipped with a CIID in a substantial emergency is in A.R.S. § 28-1464, but there is no language about when or how this is approved or accomplished. There are two references in the rules to this term. The other reference is a requirement to record this event in the data storage system.	4. The Department does not believe that additional rules are needed to implement the provisions in A.R.S. § 28-1464. A.R.S. § 28-1464(K) specifies the penalty for violating this section, and if convicted for violating Subsections B, C, E, or G, the person's ignition interlock period is extended for not more than one year. The definition of emergency bypass covers circumstances described in the definition of emergency situation in which the person's vehicle needs to be moved to comply with the law, or the person has a valid and urgent emergency that requires operation of the vehicle. In this case the person can inform the IISP or the technician, and the IISP may issue an emergency bypass. The Department does not believe that users have misused this rule and does not recommend additional rule changes.

5. R17-5-601: Delete the definition of emergency situation. The commenter notes that the statutory authority to operate a vehicle not equipped with a CIID in a substantial emergency is different than the statutory provisions referenced.	5. This definition is needed because the term "emergency situation" is referenced in R17-5-611(C) and (C)(1). The Department has rulemaking authority to adopt rules that the Director of the Department deems necessary for the administration and enforcement of A.R.S. Title 28, Chapter 4, Article 5, relating to ignition interlock devices. The definition of substantial emergency in A.R.S. § 28-1464(L) defines circumstances in this statute that are a substantial emergency for a person with a limited or restricted driving privilege who has an ignition interlock requirement. No rule changes are needed.
6. R17-5-601: In the definition of improper reporting, delete provision on reporting an incident that occurs after the vehicle is turned off. Does this include a retest violation when the retest began before the vehicle was turned off and/or circumvention and tampering?	6. Tampering and circumvention are contained in the definition of "violation" in R17-5-601 as violations, which are reportable activities, that a manufacturer shall report to the Department within 24 hours pursuant to R17-5-610(F)(1) and (F)(6). If a person with an ignition interlock is in a vehicle and turns off the vehicle when the device requests a rolling retest, and misses the rolling retest, the manufacturer must report the missed rolling retest to the Department. The Department believes it is necessary to retain this provision to clarify that actions occurring after the vehicle is turned off that are not violations should not be reported to the Department. No rule changes are needed.
7. R17-5-601: In the definition of independent laboratory, require ignition interlock device (IID) certification by an International Organization for Standardization (ISO) 17025 certified testing facility that tests a device to the 2014 NHTSA Model Specifications.	7. This amends the definition of independent laboratory to require a manufacturer that wishes to certify an ignition interlock device in R17-5-604 to submit an independent laboratory report from an ISO 17025 testing facility that has tested the device (CIID) to the NHTSA Model Specifications. Currently, a manufacturer must submit a report from an independent laboratory showing that the device meets the NHTSA Model Specifications. The Department is concerned that requiring certification by an ISO 17025 testing facility would increase costs for each manufacturer to certify a CIID, and believes further consideration should be given to the costs and benefits of this certification. The Department is not required to adopt best practices of the American Association of Motor Vehicle Administrators (AAMVA). No rule changes are needed.
8. R17-5-601: In the definition of permanent lock-out, provide that this IID feature is one in which a motor vehicle will not accept a breath sample until the IID is reset, as defined by the Association of Ignition Interlock Program Administrators (AIIPA).	8. The Department believes that the current definition of permanent lock-out is clear and does not recommend a rule change.
9. R17-5-601: Modify definition of reference sample device to a pressurized cylinder containing dry gas of known alcohol concentration. The commenter supports the use of dry gas in Arizona because it is more accurate to calibrate CIID's.	9. The Department did not include a dry gas definition in comment number one, and does not recommend changing the proposed language at this time for the reasons stated in the response to comment one.
10. R17-5-601: Modify definition of reference value to require use of dry gas to calibrate CIID's, which the commenter believes is more accurate.	10. The Department does not recommend this change for the same reasons as in the response to comment one and to ensure consistency with other rule provisions.
11. R17-5-601: Modify definition of temporary lock-out to state that this feature will not allow a breath sample for 5 minutes after a breath alcohol test result indicating an alcohol concentration above the set point.	11. The Department believes that the current definition of temporary lock-out is clear and does not recommend the definition change.
12. R17-5-603(D): The commenter wants to change the device requirements to include: 1. Calibration to an accuracy within plus or minus 0.005g/210L of the reference value; 2. Using a reference sample device that is NIST traceable with a reference value between .020 g/210L and .050g/210L adjusted for the elevation at which the reference sample device is being used; 3. Be accompanied by a Certificate of Analysis (COA), and 4. Removal from service when the cylinder pressure drops below 50 PSI.	12. The Department has modified the language in R17-5-603(D) to include the calibration accuracy provisions, use of a reference sample device with the reference values cited, and the Certificate of Analysis provisions. The accuracy provisions ensure greater device accuracy. The Department does not believe it is necessary to include the reference to "National Institute of Standards and Technology (NIST) traceable," a technical metrology term, in the rules. The provisions relating to adjusting for elevation are not necessary because this is only applicable if dry gas is used. The requirement to remove a reference sample device from service is not needed in the rules because it is contained in the contract with manufacturers.

13. R17-5-603(G): Amend CIID provisions to provide that the camera is not located in the handset. The commenter states that a device with a camera in the handset blocks the driver's field of vision because the handset must be held in a horizontal position for the camera to capture a digital image of the driver's compartment.	13. R17-5-603(G) states that the camera shall not distract or impede the driver from safe vehicle operation and details the operation of the camera in a CIID. The Department believes that the language of this rule provides adequate guidance to manufacturers and IISP's about where the camera should be located, and does not believe it is necessary to change this rule.
14. R17-5-603(I)(4): Delete the requirement that a device shall record all emergency bypasses in its data storage system, which the commenter feels is unnecessary due to deleting the emergency bypass definition.	14. The Department retained the definition of emergency bypass in comment 4, and no change is needed to the requirement to record emergency bypasses in a device's data storage system in R17-5-603(I)(4).
15. R17-5-603(I)(7): One commenter wanted to modify the device recording of any four valid reportable violations to restrict them to a 90-day period beginning on the initial date of installation of the device to clarify the time frame when violations may occur as accuracy check appointments, and to comply with the early recall definition. Another commenter wanted to require the reference to four valid reportable violations to be between a person's calibrations for consistency.	15. To comply with the language amended in R17-5-601 in the early recall definition, the Department will amend this rule to provide that any four valid reportable violations that occur within a continuous 90-day period require a person to return to a service center within 72 hours. The Department recognizes that some devices are calibrated at variable intervals and chose not to link this provision to calibration or accuracy check appointments. Since a long time may have elapsed after some individuals had their CIID installed, the option to begin the 90-day period at installation was not chosen.
16. R17-5-604(C)(3): Add new provision requiring that a manufacturer when applying for device certification must submit written documentation of the manufacturer's certification to the current International Organization for Standardization (ISO) 9001 Quality Management System standards for construction, production and device repair. Require all state certified manufacturers to apply for ISO 9001 certification by July 1, 2020, and successfully obtain certification by January 1, 2021. Require new manufacturers to obtain ISO 9001 certification before applying for device certification. This complies with American Association of Motor Vehicle Administrators (AAMVA) best practices and is required in other states.	16. The Department is not required to adopt AAMVA best practices or legislation adopted in other states. ISO certification is a lengthy process that would increase costs for manufacturers, which may be passed on to ignition interlock users. This change would require all manufacturers to reapply to the Department to certify each CIID, and would delay device approval. A manufacturer can opt to obtain ISO 9001 device certification if the manufacturer believes it is beneficial to undergo this process without making this change.
17. R17-5-604(E): The commenter wants to amend the rule to provide that a person with a CIID installed before July 1, 2018 must return to the person's service provider to exchange the CIID for an updated device within 30 days of the effective date of the rules, or set a definite date for the exchange, such as July 1, 2020, to avoid confusion for manufacturers and participants.	17. The effective date of the rules will be 60 days after the Notice of Final Rulemaking is approved by the Governor's Regulatory Review Council (GRRC) and filed with the Secretary of State. The Department has amended the rule to require individuals with ignition interlocks installed before July 1, 2018 to obtain an updated device from their IISP by October 1, 2020. Since a person returns to a service center for device calibration every 30 to 90 days, this will allow a person with an old device to exchange the device for an updated one at that time. As of December 1, 2019, 1,500 persons in the state had an old ignition interlock device. This number is expected to decrease by implementation as the ignition interlock period ends for some persons. The requirement for a person with an ignition interlock to have a device that operates wirelessly, has a global positioning system, and takes a digital image, became effective on July 1, 2018. At that time the Department allowed persons with old devices that operated properly to continue to use those devices, however, new installations required updated devices. The Department believes that implementation of the device exchange by October 1, 2020 allows adequate time for manufacturers and customers to obtain and get an updated device installed.

18. R17-5-604(E): Another commenter recommends that an individual should have two calibration periods to install an updated CIID, supports more certainty about when a participant must install an updated CIID, and wants to reduce the burden on manufacturers and individuals, especially those whose interlock requirement is less than 144 to 180 days, who would not be required to obtain an updated CIID. As an alternative, set a definite date for individuals to exchange the CIID, such as July 1, 2020, for example. The commenter questions whether it is fair to require device exchange for a customer with only a few months left in the person's ignition interlock period and to impose the increased monthly cost for the enhanced ignition interlock device.	18. The Department has amended R17-5-604(E) to set a date of October 1, 2020 by which individuals with ignition interlocks installed before July 1, 2018 must obtain an updated device from their IISP. By allowing a 3-month period for manufacturers and users to obtain an updated device will facilitate this process. Many users are expected to have more than one calibration period to install a CIID. To comply with statute changes in 2017 stating that the Department shall only certify CIID's that meet or exceed the NHTSA Model Specifications, have wireless capability, take a digital image, and have global positioning systems, the 2018 rulemaking required persons with an ignition interlock device installed after July 1, 2018 to obtain an updated device with these capabilities. Those persons with a device installed previously could keep their ignition interlock device as long as the device worked properly. Since the requirement to install a new device has been phased in over time, the number of old devices has dropped substantially, and the Department has reduced the overall impact on both manufacturers and users. Users who still have an old device that does not meet the current requirements have had a violation that extended the person's ignition interlock period. The only fee established by the Department that a user will pay at installation is the $20 installation fee. Each ignition interlock service provider establishes the fees for various ignition interlock services, which are not set in statute or rule.
19. R17-5-606(A)(5): Add new provision to require the manufacturer to have documentation showing certification to the ISO 9001 Quality Management System standards in order for the Department to determine that a manufacturer's application for device certification is complete.	19. Since the Department did not require ISO 9001 certification to certify a device, the Department has not adopted this rule change.
20. R17-5-609(D)(11): This rule requires an ignition interlock service provider (IISP) to inform a person to not avoid compliance with the rolling retest requirement by turning off the vehicle's ignition or by keeping the motor vehicle in operation while the vehicle is parked, and leaving the vehicle when a rolling retest is requested. The commenter did not have a specific recommendation to change this rule, but suggested additional language to be added to R17-5-610(K). See comment 23.	20. Service providers that install, service, and maintain ignition interlock devices instruct users about how the device works and how to avoid a violation. Instructing a customer to not leave a vehicle when the vehicle is running and parked, when a rolling retest is requested, is a logical extension of that role. The Department supports the rule change to have a service provider advise a customer, at the time of device installation, to not avoid compliance with the rolling retest requirement by keeping a motor vehicle operating while the vehicle is parked, and leaving the vehicle when a rolling retest is requested. No rule change is needed.
21. R17-5-609(L): Amend this provision if necessary to ensure that a manufacturer shall develop a reference and problem solving guide. The commenter wanted to correct an error relating to the word "manufacturer."	21. R17-5-609(L) currently states that a manufacturer must develop a reference and problem solving guide. The published proposed rules contained an error, which is corrected in item 10 to refer to "manufacturer."
22. R17-5-610(F): Amend real-time reporting requirement to require reportable activity to be submitted by the manufacturer to the Department in real-time within 24 hours, by adding "as service permits." The commenter believes this will be more consistent with the definition of "real-time" or "real-time reporting," and address situations in which the device is unable to communicate with a cell phone tower.	22. A.R.S. § 28-1461(B) requires a manufacturer to provide to the Department in real-time and in a form prescribed by the Department, information relating to individual ignition interlock activity. R17-5-610 details the information that a manufacturer must transmit to the Department. Subsections (C), (D), and (E) currently require electronic submission of device installation, calibration, and removal within 24 hours. Subsection (L) requires a manufacturer to ensure that a CIID (Certified Ignition Interlock Device) electronically and wirelessly uploads data in real-time to the manufacturer's website, and is required to submit this information and reports electronically in a daily File Transfer Profile (FTP) to the Department. Subsection (M) currently provides that where no electronic or digital service exists, the manufacturer shall store the data and send the data as soon as electronic or digital service is available. R17-5-610(M) already covers the situation mentioned. The Department does not believe a rule change is necessary.

23. R17-5-610(K)(4): The commenter recommends amending the following language to immediately contact the Department if the manufacturer finds that the reported information indicates submission of an extension or violation if all digital images taken during an 18-minute time frame indicate that a person was not in the vehicle to take a rolling retest: "Submission of an extension of a person's ignition interlock period or a violation to the Department when the digital image taken at the beginning of the first rolling retest within the 18 minute time frame, and every image thereafter during the 18 minute time frame, indicates the person was not in the vehicle to take the rolling retest." The commenter is concerned that the Department's rule change conflicts with R17-5-610(G).	23. The Department supports retaining the proposed language in R17-5-610(K)(4) with the amendment to change the word "retest" to "retests." An extension would occur when a person keeps the vehicle running, but is not in the vehicle, and misses 3 rolling retests during an 18-minute time frame. R17-5-615(G) provides that: "The Department shall extend a person's ignition interlock period for six months, as provided in A.R.S. § 28-1461(E) for any set of three consecutive rolling retests that occur within an 18-minute time frame during a drive cycle." The Department does not believe that this language conflicts with R17-5-610(G), which states that a person shall not avoid compliance with the rolling retest requirement by turning off the vehicle.
24. R17-5-610(K)(4): Another commenter recommended deleting proposed language requiring a manufacturer to immediately contact the Department if the reported information indicates that an ignition interlock period was extended or a violation occurred when a person was not in the vehicle to take the rolling retest. The commenter questioned what happens when a person turns off the car after the rolling retest prompt and exits the vehicle.	24. A missed rolling retest that occurs after the person turns off a vehicle when the device prompts for a rolling retest is reportable activity for noncompliance under R17-5-610(F). If the person exits the vehicle before the rolling retest prompt, and misses or fails 3 consecutive rolling retests during an 18-minute drive cycle, this is a violation, and requires the Department to extend the person's ignition interlock period for six months. If the person was not in the vehicle for any or one rolling retest, it is not a violation, and the Department voids the extension to prevent lengthy extensions in this circumstance. This change to require a manufacturer to immediately contact the Department when an extension is submitted when a person was not in the vehicle will save Department staff considerable time in reviewing digital images and voiding unnecessary extensions that users may incur.
25. R17-5-615: The commenter suggests amending this rule on rolling retests to allow a manufacturer to apply to the Department, subject to the Department's approval, to utilize the global positioning system (GPS) of a CIID to delay an initial rolling retest if the GPS does not detect that the vehicle is moving. The commenter is proposing this because some missed rolling retests that are reported, and may extend a person's ignition interlock period, occur when a person is not in the vehicle.	25. The Department appreciates the commenter's draft rule revisions to address the issue of a driver with an ignition interlock requirement who misses a rolling retest because the driver is not present in a vehicle, however, it is not feasible to include A.A.C.R17-5-615 in this rulemaking. Only one IISP has a CIID with the technology to detect that a vehicle is not moving in the fashion presented to the Department. The Department recommends a change to clarify the definition of missed rolling retest in R17-5-601 as follows: "Missed rolling retest means the person refused or failed to provide a valid and substantiated breath sample while operating the motor vehicle, in response to a requested rolling retest within the time period prescribed in R17-5-615(E). This addresses the commenter's proposal to reduce the exorbitant number of missed rolling retest violations reported, without requiring the other manufacturers to purchase this technology.

12. Any agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rules or class of rules. Additionally, an agency subject to Council review under A.R.S. § 41-1052 and 41-1055 shall respond to questions (a) through (c):

There are no other matters prescribed by statute applicable to ADOT or to this rulemaking.

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

A.R.S. § 28-1468 authorizes the Director of the Department to issue an authorization for an ignition interlock service provider. The ignition interlock rules in 17 A.A.C. 5, Article 6 also contain a process for certifying a manufacturer's ignition interlock device. The rules do not require a general permit, but authorization and certification are general permits because the activities or practices in the class are substantially similar in nature for all ignition interlock service providers and manufacturers to perform authorized activities.

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

A federal law is not specifically applicable to the rules. The rules in 17 A.A.C. 5, Article 6 incorporate by reference the 2013 NHTSA Model Specifications for Breath Alcohol Devices (BAIIDs) and the 2015 NHTSA technical corrections to these specifications. The rules are not more stringent than federal law.

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

The Department did not receive a business competitiveness analysis.

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

R17-5-604(C)(3)(a) incorporates by reference the 2013 Model Specifications for Breath Alcohol Ignition Interlock Devices (BAI-

IDs), and the 2015 NHTSA technical corrections.

14. Whether the rules were previously made, amended, or repealed as emergency rules. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rules were not previously made, amended, or repealed as emergency rules.

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION COMMERCIAL PROGRAMS

ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS AND IGNITION INTERLOCK SERVICE PROVIDERS

Section
R17-5-601. Definitions
R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration
R17-5-604. Ignition Interlock Device Certification; Application Requirements
R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing
R17-5-609. IISP and Manufacturer Responsibilities
R17-5-610. Reporting; Reportable Activity
R17-5-612. Records Retention; Submission of Copies and Quarterly Reports
R17-5-614. ~~Ignition Interlock Device Installation Fee; Financial Records~~ Ignition Interlock Device Installation Fee; Financial Records
R17-5-616. Civil Penalties; Hearing
R17-5-621. Service Center Application

ARTICLE 6. IGNITION INTERLOCK DEVICE MANUFACTURERS AND IGNITION INTERLOCK SERVICE PROVIDERS

R17-5-601. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101 and 41-1072, in this Article, unless the context otherwise requires, the following terms apply:

"Alcohol concentration" means the weight amount of alcohol contained in a unit volume of breath or air, measures in grams of ethanol/210 liters of breath of air and expressed as grams/210 liters.

"Alveolar breath sample" means the last portion of a prolonged, uninterrupted exhalation from which breath alcohol concentrations can be determined.

"Anticircumvention feature" means any feature or circuitry incorporated into the ignition interlock device that is designed to prevent human activity that would cause the device not to operate as intended.

"Authorization agreement" or "agreement" means an agreement authorized by the Director that an IISP enters into with the Department to provide ignition interlock services under A.R.S. § 28-1468.

"Breath alcohol test" means analysis of a sample of the person's expired alveolar breath to determine alcohol concentration.

"Bump starting" means a method of starting a motor vehicle with an internal combustion engine by engaging the manual transmission while the vehicle is in motion.

"Business day" means a day other than a Saturday, Sunday, or state holiday.

"Calibration" means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify its accuracy.

"Cancellation" means the termination of a manufacturer's ignition interlock device certification for ignition interlock device installation.

"Certification" means a status granted by the Department under this Article, which permits a certified ignition interlock device manufacturer to offer an ignition interlock device for installation.

"Certified ignition interlock device," "CIID," or "device" means a device that is based on alcohol specific electrochemical fuel sensor technology that meets the NHTSA specifications; that connects a breath analyzer to a motor vehicle's ignition system; that is constantly available to monitor the alcohol concentration in the breath of any person attempting to start the motor vehicle by using its ignition system; that deters starting the vehicle by use of its ignition system unless the person attempting to start the motor vehicle provides an appropriate breath sample for the device; and determines whether the alcohol concentration in the person's breath is below a preset level.

"Circumvent" or "circumvention" means an attempted or successful bypass of the proper functioning of a certified ignition interlock device and includes all of the following:

The bump start of a motor vehicle with a certified ignition interlock device;

The introduction of a false sample other than a deep-lung breath sample from the person driving the motor vehicle;

The introduction of an intentionally contaminated or a filtered breath sample;

The intentional disruption or blocking of a digital image identification device;

The continued operation of the motor vehicle after the certified ignition interlock device detects breath alcohol exceeding the presumptive limit prescribed in A.R.S. § 28-1381(G)(3) or, if the person is under 21 years of age, any attempt to operate the motor vehicle with any spirituous liquor in the person's body;

Operating a motor vehicle without a properly functioning certified ignition interlock device and;

When a person, who is required to maintain a functioning certified ignition interlock device is starting or operating the motor vehicle, permits another individual to breathe into the certified ignition interlock device for the purpose of providing a breath alcohol sample to start the motor vehicle or for the rolling retest.

"Corrective action" means an action specified in or reasonably implied from Title 28, Chapter 4, Arizona Revised Statutes, that the Department takes in relation to a person's driving privilege and the usage or discontinuation of usage of a CIID.

"Customer number" means the system-generated, or other distinguishing number, assigned by the Department to each person conducting business with the Department. The customer number of a private individual is generally the person's driver license or non-operating identification license number.

"Data logger" means the electronic record of all ignition interlock device activity during the period when the device is installed.

"Data storage system" means a computerized recording of all events monitored by an ignition interlock device, which may be reproduced in the form of specific reports.

"Defective ignition interlock device" means an ignition interlock device that:

1. Does not meet the NHTSA specifications;
2. Does not pass calibration tests; or
3. Does not meet the accuracy and device standards prescribed in these rules.

"Drive cycle" means either the period of time from when a motor vehicle is initially turned on to the next time the ignition is turned off, or the period of time from when an initial breath alcohol test is performed and failed, to the time a breath alcohol test is successfully taken and the ignition is turned off.

"Early recall" means that a person's ignition interlock device recorded one tampering or circumvention event, ~~or~~ any ignition interlock malfunction, <u>or any four valid reportable violations within a continuous 90-day period,</u> that requires a person to return to a service center within 72 hours.

"Emergency bypass" means an event that permits a vehicle equipped with an ignition interlock device to be started without requiring successful completion of a required breath alcohol test.

"Emergency situation" means a circumstance in which the person informs the IISP or IISP-certified technician that the person's vehicle needs to be moved to comply with the law, or the person has a valid and urgent need to operate the vehicle.

"Established place of business" means a business location that is:

Approved by the Department;

Located in Arizona;

Not used as a residence; and

Where an IISP or its agent or subcontractor provides authorized ignition interlock services.

"False sample" means any sample other than the unaltered, undiluted, or unfiltered alveolar breath sample coming from the person.

"Filtered breath sample" means any mechanism by which there is an attempt to remove alcohol from the human breath sample.

"Free restart" means a function of a CIID that will allow a person to restart the vehicle, under the conditions provided in R17-5-615, without completing another breath alcohol test.

"FTP" means file transfer protocol, the exchange of files over any network that supports electronic data interchange reporting that is transmitted through the Internet and prescribed by the Department.

"Global positioning system" means the ability of a wireless certified ignition interlock device to identify and transmit its geographic location through the operation of the device.

"Ignition interlock device installation fee" means the fee required in A.R.S. § 28-1462, and established by the Department in R17-5-614, that is paid by a person to an IISP when a CIID is installed on, or transferred to a person's vehicle.

"Ignition interlock period" means the period in which a person is required to use a CIID that is installed on a vehicle.

"Ignition interlock service provider" or "IISP" means a person who is an authorized representative of a manufacturer and who is under contract with the Department to install or oversee the installation of ignition interlock devices by the provider's authorized agents or subcontractors and to provide services to the public related to ignition interlock devices.

"Improper reporting" means any of the following:

Failure of a manufacturer to report any violations to the Department within 24 hours as required in R17-5-610(D)(1), or failure to send a person's ignition interlock reporting records, including records relating to a violation, to the Department as required in R17-5-612(C);

Failure of a manufacturer to submit to the Department valid and substantiated proof or evidence of a reportable activity related to a violation, including a summary report and relevant data loggers as required in R17-5-610(D)(2), within 10 days after the Department's request;

Failure of a manufacturer to electronically send each Certified Ignition Interlock Summarized Reporting Record to the Department within 24 hours, after performing a calibration check, that results in the Department mailing a driver license suspension to a person;

<u>Failure of a manufacturer to electronically send a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after installing a CIID;</u>

Electronic reporting by a manufacturer to the Department, of data that is an exact duplicate of a single violation that occurs on a particular day and time and is reported multiple times;

Knowingly reporting a violation that occurs when a participant's vehicle has high or low voltage;

Reporting an incident that occurs when a person has a free restart test to start the person's vehicle;

Reporting an incident that occurs in which a manufacturer downloads data from the device during a calibration check and tampers with the data or a CIID; ~~or~~

<u>Failure of a manufacturer to validate any person's ignition interlock period extension within 10 days; or</u>

~~An~~ <u>Reporting an</u> incident that occurs after the person's vehicle is turned off.

"Independent laboratory" means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
"Manufacturer" means a person or an organization that is located in the United States, that is responsible for the design, construction, and production of an ignition interlock device and that is certified by the Department to offer ignition interlock devices for installation in motor vehicles in this state.
"Material modification" means a change to a CIID that affects the functionality of the device.
"Missed rolling retest" means the person refused or failed to provide a valid and substantiated breath sample while operating the motor vehicle, in response to a requested rolling retest within the time period prescribed in R17-5-615(E).
"Mobile services" means ignition interlock services provided by an IISP or its agents or subcontractors at a publicly accessible location other than the IISP's service center, that meet the requirements of R17-5-618.
"NHTSA" means the United States Department of Transportation's National Highway Traffic Safety Administration.
"NHTSA specifications" means the specifications for breath alcohol ignition interlock devices published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
"Permanent lock-out" means a feature of the CIID in which a motor vehicle will not start until the CIID is reset by an IISP or an IISP-certified technician.
"Person" means a person who is ordered by an Arizona court or the Department to equip each motor vehicle operated by the person with a functioning CIID, and who becomes a customer of an IISP for installation and servicing of the CIID.
"Positive result" means a test result indicating that the alcohol concentration meets or exceeds the set point value.
"Principal place of business" means the administrative headquarters of a manufacturer or an IISP that is located in Arizona, is zoned for commercial, and is not used as a residence.
"Purge" means any mechanism that cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.
"Real-time" or "real-time reporting" means the instant transmission of unfiltered ignition interlock violations as defined in R17-5-601, and data as prescribed in R17-5-610, including ~~photographs~~ digital images, to the manufacturer's website for viewing by the Department without delay, as electronic or digital service permits.
"Reference sample device" means a device containing a sample of known alcohol concentration.
"Reference value" means an alcohol reference solution prepared and tested in a laboratory with a reference value and used to perform an accuracy check of the calibration of a CIID.
"Retest set point" has the same meaning as set point.
"Rolling retest" means a breath alcohol test that is required of a person at random intervals after the motor vehicle is started and that is in addition to the initial test required to start the motor vehicle.
"Service center" means an established place of business approved by the Department from which an IISP or its agents or subcontractors provide ignition interlock services to persons from one or more counties.
"Set point" means an alcohol concentration of 0.020 g/210 liters of breath. ~~The accuracy of a device shall be 0.020 g/210 liters plus or minus 0.010 g/210 liters~~.
"Tampering" means an overt or conscious attempt to physically disable or otherwise disconnect the CIID from its power source that allows the operator to start the engine without taking and passing the requisite breath test.
"Technician" means a person who is certified and properly trained by an ignition interlock service provider to install, inspect, calibrate, service or remove certified ignition interlock devices.
"Temporary lock-out" means a feature of the CIID which will not allow a motor vehicle to start for five minutes after a breath alcohol test result indicating an alcohol concentration above the set point.
"Vehicle identification number" or "VIN" means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.
"Violation" (when referencing acts or omissions on the part of a person in the ignition interlock program) includes, but is not limited to any of the following reportable activities performed by a person which a manufacturer shall promptly report to the Department:

- Circumventing the CIID as defined in R17-5-601;
- Tampering with the CIID as defined in A.R.S. § 28-1301;
- Failing to provide proof of compliance or inspection of the CIID under A.R.S. § 28-1461(E)(4);
- Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E)(5) if the person is at least 21 years of age;
- Attempting to operate the vehicle with an alcohol concentration value in excess of the set point if the person is under 21 years of age;
- Refusing or failing to provide any set of three consecutive valid and substantiated breath samples in response to a requested rolling retest within an 18-minute time frame during a person's drive cycle;
- Disconnecting or removing a CIID, except:
  - On repair of the vehicle, if the person provided to the IISP, technician, or service center advance notice of the repair and the anticipated completion date; or
  - On moving the device from one motor vehicle to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.

"Violation reset" means the unplanned servicing and inspection of a CIID and the downloading of information from its data storage system by an IISP as a result of an early recall that requires the manufacturer to unlock the device.

R17-5-603. Device Requirements, Technical Specifications, and Standards for Setup and Calibration

A. The accuracy of the CIID shall be determined by analysis of an external standard generated by a reference sample device.
B. A device shall have a demonstrable feature designed to assure that a breath sample measured is essentially alveolar.

C. A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to a positive result.

D. All devices shall meet the setpoint requirements of R17-5-601 ~~when used at ambient temperatures of -20° Celsius to 83° Celsius.~~ and the following requirements:

1. Be calibrated to have an accuracy within plus or minus 0.005 g/210L of the reference value;
2. Be calibrated using a known reference value between .020 g/210L and .050 g/210L; and
3. Be accompanied by a Certificate of Analysis (COA).

E. A device shall be designed so that anticircumvention features will be difficult to bypass.

1. Anticircumvention provisions on the device shall include, but are not limited to, prevention or preservation of any evidence of circumvention by attempting to use a false or filtered breath sample or electronically bypassing the breath sampling requirements of a device.
2. A device shall use special seals or other methods that reveal attempts to bypass lawful device operation.

F. A CIID shall have global positioning system capability, and the manufacturer shall electronically and wirelessly download in real-time from the device and transmit daily to the Department, a person's ignition interlock activity in an FTP batch file.

G. A CIID shall be equipped with a camera, which shall not distract or impede the driver in any manner from safe and legal operation of the vehicle, shall record all ignition interlock activity of the person, and shall provide any visual evidence of actual or attempted tampering, alteration, bypass, or circumvention, and report this information directly to the manufacturer.

H. The camera shall be able to record and store visual evidence of each person providing a breath alcohol test, and shall meet the following requirements:

1. At device installation, the camera shall take a reference picture of the person, which shall be kept on file;
2. A clear ~~photograph~~ digital image shall be taken for each event, including initial vehicle start, all rolling retests, and whenever a violation is recorded;
3. Each ~~photograph~~ digital image shall be a wide-angle view of the front cabin of the vehicle, including the passenger side, to ensure the camera can clearly capture the entire face of the person and any passengers; and
4. The camera shall produce a digital image~~, identifiable verification, or a photograph~~ of the person in all lighting conditions, including brightness, darkness, and low light conditions.

I. A device shall:

1. Automatically purge alcohol before allowing analysis.
2. Have a data storage system with the capacity to sufficiently record and maintain a record of the person's daily driving activities that occur between each regularly scheduled calibration check referenced under R17-5-610 and R17-5-706. An IISP shall download and transmit any digital images taken during a person's calibration check, during each rolling retest, and each time a person with the ignition interlock requirement or another individual starts the motor vehicle. A manufacturer shall make these digital images available to the Department on request.
3. Use the most current version of the manufacturer's software and firmware to ensure compliance with this Article and any other applicable rule or statute. The manufacturer's software and firmware shall:
   a. Require device settings and operational features to include, but not limited to, sample delivery requirements, the set point, free restart, rolling retest requirements, violation settings, and temporary and permanent lock-outs; and
   b. Prohibit modification of the device settings or operational features by a service center, or an IISP-certified technician unless the Department approves the modification under subsection (J).
4. Record all emergency bypasses in its data storage system.
5. Provide a visual reminder on the device that a calibration check must be performed on the person's CIID every 90 days, with prominent device notifications during each 77-day to 90-day interval within a person's ignition interlock period, of the following:
   a. The device needs service; and
   b. The time remaining until a permanent lock-out occurs.
6. Notify a person that failure to get the calibration check, including calibration and data download, by the end of each 90-day period will cause the vehicle to be in a permanent lock-out mode, and shall record the event in the data storage system.
7. On recording a violation of A.R.S. Title 28, Chapter 4, Article 5 for one instance of tampering or circumvention, ~~or~~ any ignition interlock device malfunction, or any four valid reportable violations within a continuous 90-day period, emit a unique cue, either auditory, visual, or both, to warn a person that an early recall is initiated, requiring the person to return to the IISP in 72 hours for a violation reset.
8. Enter into a permanent lock-out if a person does not return to the IISP for a violation reset within 72 hours after an early recall occurs.
9. When a violation results in a permanent lock-out mode, the device shall:
   a. Immobilize the person's vehicle;
   b. Uniquely record the event in the data storage system; and
   c. Require a violation reset by the IISP.
10. Enter into a temporary lock-out mode for five minutes when the device detects during the initial breath alcohol test that a person's breath alcohol concentration is at or above the set point.
11. After the five-minute temporary lock-out, the device shall allow subsequent breath alcohol tests with no further lock-out as long as each subsequent test produces a valid and substantiated breath test.
12. Have security protections and the capability to provide visual evidence of any actual or attempted tampering, alteration or bypass of the device, or circumvention.

J. No modification shall be made to the design or operational concept of a device model after the Department has certified the device for installation under Arizona law, except that:

1. A software or firmware update required to maintain a device model is permissible if the update does not modify the design or operational concept of the device.
2. Replacement, substitution, or repair of a part required to maintain a device model is permissible if the part does not modify the design or operational concept of the device.
3. If a manufacturer determines that an existing Department-certified ignition interlock device model requires any modification, the manufacturer shall immediately notify the Department.

R17-5-604. Ignition Interlock Device Certification; Application Requirements

A. A manufacturer shall offer for installation only an ignition interlock device that is certified by the Department under this Section.

B. To certify an ignition interlock device model, a manufacturer shall submit to the Department a properly completed application form that provides:
1. The manufacturer's name;
2. The address of the manufacturer's principal place of business in this state and telephone number;
3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
6. The manufacturer's electronic mail address.
7. The following statements, signed by the manufacturer:
   a. A statement that all information provided on the application form, including all information provided on any attachment to the application form, is complete, true, and correct;
   b. A statement that the manufacturer agrees to indemnify and hold harmless the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona from all liability for:
      i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or the manufacturer's authorized IISP relating to the installation and operation of the ignition interlock device; and
      ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
   c. A statement that the manufacturer agrees to comply with all requirements under this Article; and
   d. A statement that the manufacturer agrees to immediately notify the Department of any change to the information provided on the application form.

C. A manufacturer shall submit the following additional items with the application form:
1. A document that provides a detailed description of the ignition interlock device and a ~~photograph~~ digital image, drawing, or other graphic depiction of the device;
2. A document that contains the complete technical specifications for the accuracy, reliability, security, data collection, recording, and tamper detection capabilities of the ignition interlock device;
3. An independent laboratory's report for each device model that:
   a. Presents supporting data to demonstrate that the ignition interlock device meets or exceeds the test results required by the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015. The NHTSA specifications and technical corrections are incorporated by reference and are on file with the Department at 206 S. 17th Avenue, Phoenix, AZ 85007, and the NHTSA Office of Research and Technology, 1200 New Jersey Avenue SE, Washington, D.C. 20590. This incorporation by reference contains no future editions or amendments;
   b. Provides the independent laboratory's name, address, and telephone number; and
   c. Provides the name and model number of the ignition interlock device tested.
4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required under subsection (C)(3), that states all of the following:
   a. The laboratory is not owned or operated by a manufacturer and no other conflict of interest exists.
   b. The laboratory tested the ignition interlock device in accordance with the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013 with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
   c. The laboratory confirms that the ignition interlock device meets or exceeds the test results required under the Model Specifications For Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.
   d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device.
   e. The laboratory presented accurate test results to the Department.
5. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
   a. A product liability policy with a current effective date;
   b. The name and model number of the ignition interlock device model covered by the policy;
   c. Policy coverage of $1,000,000 and $3,000,000 in the aggregate;
   d. The manufacturer as the insured and the state of Arizona as an additional insured;
   e. Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the ignition interlock device; and
   f. The insurance company shall notify the Department's Risk Management, Insurance and Indemnification Section in writing at least 30 days before canceling the product liability policy.
6. A statement that the ignition interlock device has a camera, includes a global positioning system, and provides real-time reporting.

D. ~~Beginning on July 1, 2018, for~~ For any ~~new~~ installation of ~~an~~ a certified ignition interlock device or any replacement of a device on a person's motor vehicle with another device, an IISP or an IISP-certified technician shall install only a certified ignition interlock

device that meets the additional requirements in this Article, and meets or exceeds the test results required by the Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), NHTSA, published at 78 FR 26862 to 26866, May 8, 2013, with the NHTSA technical corrections published at 80 FR 16720 to 16723, March 30, 2015.

E. A person whose CIID was installed prior to July 1, 2018, ~~and the device meets or exceeds the 2013 NHTSA specifications, with the 2015 NHTSA technical corrections, and continues to operate properly, shall keep the CIID on the person's vehicle.~~ that does not meet all the requirements of Subsection (D) shall return to the person's IISP by October 1, 2020 to exchange the CIID for a CIID that meets all the requirements of Subsection (D).

R17-5-606. Application Completeness; Denial of Ignition Interlock Device Certification; Hearing

A. An application for certification of an ignition interlock device model is complete when the Department receives:
1. From the manufacturer, a properly prepared application form;
2. From the manufacturer, all additional items required under R17-5-604(C);
3. From the Department of Public Safety, under A.R.S. § 28-1462, written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets or exceeds the NHTSA specifications in R17-5-604(C); and
4. From the manufacturer, a letter or notification that the device meets the following standards:
   a. The anticircumvention features in R17-5-603(E),
   b. The data storage capacity requirement in R17-5-603(I)(2), and
   c. The constant communication requirement in ~~R17-5-610(P)~~ R17-5-610(O).

B. The Director shall deny an application for certification of an ignition interlock device model if all requirements of subsection (A) are not met, or on finding any of the following:
1. The design, material, or workmanship is defective, causing the ignition interlock device model to fail to function as intended;
2. The manufacturer's product liability insurance coverage is terminated or canceled;
3. The manufacturer no longer offers the ignition interlock device model for installation under Arizona law;
4. The manufacturer or the independent laboratory provided false or inaccurate information to the Department relating to the performance of the ignition interlock device model;
5. The components, design, or installation and operating instructions have undergone a modification that causes the ignition interlock device model to be out of compliance with the NHTSA specifications in R17-5-604(C), the requirements in this Article; or
6. The Department receives a report of device disapproval from an independent laboratory or other external reviewer.

C. The Department shall mail to the manufacturer, written notification of the certification or denial of certification of an ignition interlock device model. A notice denying certification of an ignition interlock device model shall specify the basis for the denial and indicate that the applicant may, within 15 days of the date on the notice, request a hearing on the Director's decision to deny certification by filing a written request with the Department's Executive Hearing Office as prescribed under 17 A.A.C. 1, Article 5.

D. If a manufacturer timely requests a hearing on the Director's decision to deny certification of an ignition interlock device model, the Department's Executive Hearing Office shall conduct the hearing as provided under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5.

R17-5-609. IISP and Manufacturer Responsibilities

A. An IISP shall refer a person only to the IISP's certified technician.

B. An IISP shall provide the Department and each person with a toll-free telephone number to call to obtain the names and phone numbers of the IISP's certified technicians, the IISP service center locations, and hours of operation for the IISP service centers.

C. An IISP shall certify each technician by providing adequate training and oversight for the technician to perform one of the activities at a service center, which are installation, inspection, calibration, service, or removal of a CIID.

D. An IISP shall provide to every person operating a motor vehicle equipped with a CIID, and any other persons who will operate the motor vehicle, training on how to operate the motor vehicle. An IISP shall instruct the person on all of the following:
1. How to use the system;
2. How to obtain service for the CIID;
3. How to find answers to any additional questions;
4. How the alcohol retest feature works;
5. How drinking alcohol before a test may result in a reading of sensitive or fail;
6. How the CIID shall not be removed, except by an IISP or IISP-certified technician;
7. How noncompliance with a regularly scheduled calibration check for a person with a limited or restricted driving privilege shall result in suspension of the person's driving privilege under A.R.S. § 28-1463 until proof of compliance is submitted to the Department under A.R.S. § 28-1461, and the duration of the person's certified ignition interlock device requirement shall be extended under A.R.S. § 28-1461;
8. What the penalties are for circumvention of the CIID;
9. What the penalties are for tampering with, or misusing the CIID;
10. What will happen after failing a start-up breath alcohol test;
11. What will happen after a person has a set of three consecutive valid and substantiated missed rolling retests within an 18-minute time frame during a drive cycle; and that a person shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition~~,~~ or by keeping the motor vehicle in operation while the vehicle is parked, and leaving the vehicle when a rolling retest is requested;
12. What events or actions will result in a temporary or permanent lock-out of the CIID; and
13. How to provide a properly delivered alveolar breath sample.

E. An IISP shall have each person sign a document stating that the IISP has instructed the person regarding each topic contained in subsections (D) and (L), and has received the manufacturer's written instructions for operation of the CIID.

F. An IISP shall inform a person that a compliance check on a CIID is required 30 days and 60 days after installation of the device, which shall be done electronically.

G. An IISP shall inform each person to bring the vehicle to a service center for a calibration check within every 77 to 90-day period until the person is eligible for device removal.

H. An IISP shall check each CIID for evidence of tampering at least once every 90 days or more frequently if needed. This anticircumvention check shall be conducted at each person's calibration check at a service center as required under R17-5-706.

I. An IISP shall ensure that the manufacturer reports to the Department electronically under R17-5-610 if any evidence of tampering is discovered, and the manufacturer shall submit valid and substantiated proof or evidence of a reportable activity. An IISP shall keep visual evidence of a person's tampering or circumvention for a minimum of three years after the termination of the ~~person'~~ person's required ignition interlock period.

J. An IISP shall submit to the Department a list of the IISP-certified technicians, subcontractors, or agents, and service centers at the beginning of the contract with the Department, within 5 business days of making a change to the list previously provided, and on a monthly basis as requested by the Department.

K. An IISP shall comply with the provisions of this Article and A.R.S. Title 28, Chapter 4, Article 5.

L. A ~~n~~ manufacturer shall develop and an IISP shall provide each person a reference and problem solving guide at the time of installation that shall include information on the following:
1. Operating a motor vehicle equipped with the CIID;
2. Cleaning and caring for the CIID; ~~and~~
3. Identifying and addressing any vehicle malfunctions or repairs that may affect the CIID~~.~~; and
4. How to properly take a valid and substantiated rolling retest.

M. A manufacturer shall notify the Department within 10 days of a change of address of its principal place of business in this state.

N. A manufacturer or an IISP shall provide a warning label, for each CIID installed, which shall have an orange background and shall include the following:
1. Be a minimum size of two inches by one inch;
2. Be printed in a minimum of nine-point font;
3. Be printed in Arial font, or a font of substantially similar size and legibility; and
4. Contain the words in black lettering: "Warning! Any person tampering with, circumventing, or otherwise misusing this Ignition Interlock Device, is guilty of a Class 1 misdemeanor."

O. A manufacturer shall ensure that the IISP or the IISP-certified technician affixes conspicuously and maintains on each installed CIID the warning label described under subsection (N), which ~~can~~ may be affixed to the device or to the device's cord.

P. A manufacturer shall develop written instructions for the installation and removal of an ignition interlock device from a motor vehicle.

Q. While a person maintains a functioning CIID in a vehicle under A.R.S. Title 28, Chapter 4, Article 5, the ignition interlock manufacturer shall electronically provide to the Department and transmit daily to the Department the information and reports prescribed in R17-5-610 and R17-5-615.

R. The manufacturer is responsible for overseeing any agents or subcontractors, including vendors and distributors, as well as overseeing the manufacturer's IISP to ensure adherence to all performance standards.

R17-5-610. Reporting; Reportable Activity

A. A person shall have installed in a motor vehicle, only an ignition interlock device certified by the Department under R17-5-604.

B. A manufacturer shall develop and the IISP shall ensure that each IISP-certified technician complies with the IISP's written procedures for the installation of a CIID.

C. Certified ignition interlock device installation verification.
1. A manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours of the device installation.
2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for installation verification shall contain all of the following information:
   a. Department-assigned service center number;
   b. Person's full name (first, middle, last and suffix);
   c. Date of birth;
   d. Driver license or customer number;
   e. Report date;
   f. Install date;
   g. Report type;
   h. Technician identification number;
   i. A unique identification number for the CIID;
   j. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
   k. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.

D. Certified ignition interlock device calibration check.
1. A manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours after performing a calibration check on an installed CIID.
2. A manufacturer shall submit to the Department the following valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), within 10 days by electronic means, which shall include:
   a. A summary report stating why the data logger or any other evidence confirms the occurrence of a violation, including any ~~photographs~~ digital images of the person; and
   b. A data logger that shows at least 12 hours of data before and after the violation.
3. A manufacturer may submit to the Department the following additional valid and substantiated proof or evidence of a reportable activity related to a violation, as prescribed in subsection (F), if available, within 10 days by electronic means, which may include:

~~a. Photographs;~~
~~b.~~a. Video recordings;
~~c.~~b. Written statements; and
~~d.~~c. Any other evidence relevant to a violation.

4. The electronic Certified Ignition Interlock Device Summarized Reporting Record for the calibration check shall contain all of the following information:
   a. Department-assigned service center number;
   b. Person's full name (first, middle, last and suffix);
   c. Date of birth;
   d. Driver license or customer number;
   e. Report date;
   f. Install date;
   g. Report type;
   h. Missed rolling retest count, dates, and times;
   i. Technician identification number;
   j. Alcohol concentration violation count, dates, time, and alcohol concentration;
   k. Tampering violation count, dates, and time;
   l. Circumvention count, dates, and time;
   m. Device download date;
   n. Device download time;
   o. Bypass code indication, date, and time;
   p. A unique identification number for the CIID;
   q. The last six digits of the vehicle identification number that matches the vehicle information on the data logger; and
   r. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID.

E. Certified ignition interlock device removal report.

1. When a certified ignition interlock device is removed, a manufacturer shall electronically transmit a Certified Ignition Interlock Device Summarized Reporting Record to the Department within 24 hours.
2. The electronic Certified Ignition Interlock Device Summarized Reporting Record for removal of a device shall indicate the condition of noncompliance and contain all of the following information:
   a. Department-assigned service center number;
   b. Person's full name (first, middle, last and suffix);
   c. Date of birth;
   d. Driver license or customer number;
   e. Report date;
   f. Install date;
   g. Removal date;
   h. Report type;
   i. Technician identification number;
   j. A unique identification number for the CIID;
   k. The last six digits of the vehicle identification number that matches the vehicle information on the data logger;
   l. Whether the Department, a court, or an out-of-state entity requires a person to have a CIID;
   m. Missed rolling retest count, dates, and times;
   n. Device download date; and
   o. Device download time.

F. Reportable activity for a person's noncompliance with these rules and A.R.S. Title 28, Chapter 4, Article 5, shall be limited to valid and substantiated instances by a person of any of the following transmitted electronically and wirelessly by the manufacturer to the Department in real-time within 24 hours:

1. Tampering with a CIID as defined in A.R.S. § 28-1301;
2. Refusing or failing to provide any set of three consecutive valid and substantiated breath samples in response to a requested rolling retest within an 18-minute ~~timeframe~~ time frame during a person's drive cycle;
3. Failing to provide proof of compliance or inspection of the CIID as required under A.R.S. § 28-1461(E)(4);
4. Attempting to operate the vehicle with an alcohol concentration of 0.08 or more as prescribed in A.R.S. § 28-1461(E)(5) if the person is at least 21 years of age;
5. Attempting to operate the vehicle with an alcohol concentration in excess of the set point if the person is under 21 years of age;
6. Circumvention of a CIID as defined in R17-5-601; or
7. Disconnecting or removing a CIID, except:
   a. On repair of the vehicle, if the person provided to the IISP, technician, or service center advance notice of the repair and the anticipated completion date; or
   b. On moving the device from one motor vehicle to another motor vehicle if replacement of the device is accomplished within 72 hours of device removal.

G. A person shall not avoid compliance with the rolling retest requirement by turning off a motor vehicle's ignition~~.~~ or by keeping the motor vehicle operating while the vehicle is parked, and leaving the vehicle when a rolling retest is requested. A missed rolling retest is reportable activity for a person's noncompliance under subsection (F).

H. A manufacturer shall screen each person's data loggers to ensure that there is no improper reporting.

I. A manufacturer shall ensure that a CIID has the necessary programming to identify each person's ignition interlock period and each drive cycle to report and send data and violations to the Department as required by these rules.

J. A manufacturer shall review within 10 days all reports ~~generated~~ sent by the Department and returned to the manufacturer for verification of accurate reporting. If a manufacturer finds that the reported information does not indicate valid and substantiated evidence of a violation, the manufacturer shall immediately contact the Department to correct the person's record before corrective action is initiated against a person as a result of misreported ignition interlock data.

K. A manufacturer shall immediately contact the Department if the manufacturer finds that the reported information indicates:
1. An obvious mechanical failure of a CIID;
2. Obvious errors in the recorded CIID data that cannot be attributed to a person's actions; ~~or~~
3. Obvious errors in the transmission of CIID data to the Department, including misreported instances of tampering~~.~~; or
4. Submission of an extension of a person's ignition interlock period or a violation to the Department when a person was not in the vehicle to take the rolling retests.

L. A manufacturer shall ensure that a CIID electronically and wirelessly uploads data in real-time to the manufacturer's website, that is maintained by the manufacturer, and the manufacturer shall submit all required information and reports in a daily FTP file to the Department.

M. In cases where no electronic or digital service exists, the manufacturer shall store the data and send the data as soon as electronic or digital service is available.

N. A manufacturer shall include the date of the last upload on the person's account on the manufacturer's website.

O. A CIID shall have constant communication between the manufacturer's server and relay unit while the device is in use.

P. All data, including ~~photographs~~ digital images, shall be available to the Department for viewing on the manufacturer's website within five minutes after the data is recorded on the device, or as soon as electronic or digital reception permits.

R17-5-612. Records Retention; Submission of Copies and Quarterly Reports

A. During the duration of the ignition interlock service authorization agreement, an IISP shall retain each person's ignition interlock activity records in an electronic format, including a secure database, or a paper format. The retained records shall consist of every document relating to installation, operation, and removal of the CIID. The IISP shall maintain all daily ignition interlock activity records of each person in the device's data storage system, or in a secure database at a commercial business location in this state, that the Department may access during posted business hours. An IISP shall inform the Department where all individual ignition interlock activity records are located.

B. Prior to the end or termination of an ignition interlock service authorization agreement, the manufacturer shall obtain all person's ignition interlock records and provide the Department with electronic access to the records for three years.

C. A manufacturer shall provide copies of each person's ignition interlock records to the Department within 10 days after Department personnel request copies of records, including records relating to installation and operation of the CIID.

D. A manufacturer shall electronically send to the Department, by the 10th day of January, April, July, and October, a quarterly report containing the following information for the previous three months:
1. The number of CIID's the IISP currently has in service;
2. The number of CIID's installed since the previous quarterly report; ~~and~~
3. The number of CIID's removed by the IISP since the previous quarterly report~~.~~; and
4. Other information required by the Department.

E. An IISP shall maintain and make available to the Department the ignition interlock records of all persons served by the IISP, records relating to the authorization agreement, and employee background check information at a commercial business location in this state of the manufacturer or the IISP during normal business hours.

R17-5-614. ~~Ignition Interlock Device Installation Fee; Financial Records~~ Ignition Interlock Device Installation Fee; Financial Records

~~**A.** An IISP shall collect an ignition interlock device installation fee of twenty dollars from each participant for each CIID that is installed in, or transferred to a motor vehicle by an IISP.~~

~~**B.** An IISP shall electronically remit the collected ignition interlock device installation fees paid by all persons to the Department on a monthly basis through a payment account created by the IISP on ServiceArizona.com, or as specified by the Department, by transferring the collected fees paid during the previous month to the Department by the tenth day of the following month.~~

~~**C.** An IISP shall not charge a person an installation fee to replace a defective ignition interlock device.~~

~~**D.** An IISP shall post the amount of the ignition interlock device installation fee and the statutory authority for the ignition interlock device installation fee required by A.R.S. § 28-1462 on the IISP's website, that is available to all persons with an ignition interlock device requirement, and in a visible location at each of the IISP's service centers.~~

~~**E.** An IISP must clearly post the amount of all other fees charged to a person for ignition interlock device services.~~

~~**F.** An IISP shall maintain the financial records of the ignition interlock device installation fee collection and transfer to the Department, at an IISP's established place of business, or in a secure database, for three years from the date of the fee transfer. The Department may review the financial records of an IISP during normal business hours, to ensure compliance with the collection and transfer of the ignition interlock device installation fee to the Department.~~

A. An IISP shall collect an ignition interlock device installation fee of twenty dollars from each participant for each CIID that is installed in, or transferred to a motor vehicle by an IISP.

B. An IISP shall electronically remit the collected ignition interlock device installation fees paid by all persons to the Department on a monthly basis through a payment account created by the IISP, as determined by the Department, by transferring the collected fees paid during the previous month to the Department by the tenth day of the following month.

C. An IISP shall not charge a person an installation fee to replace a defective ignition interlock device.

D. An IISP shall post the amount of the ignition interlock device installation fee and the statutory authority for the ignition interlock device installation fee required by A.R.S. § 28-1462 on the IISP's website, that is available to all persons with an ignition interlock device requirement, and in a visible location at each of the IISP's service centers.

E. An IISP must clearly post the amount of all other fees charged to a person for ignition interlock device services.

F. An IISP shall maintain the financial records of the ignition interlock device installation fee collection and transfer to the Department, at an IISP's established place of business, or in a secure database, for three years from the date of the fee transfer. The Department may review the financial records of an IISP during normal business hours, to ensure compliance with the collection and transfer of the ignition interlock device installation fee to the Department.

R17-5-616. Civil Penalties; Hearing

A. After notice and an opportunity for a hearing, the Director may impose a civil penalty pursuant to A.R.S. § 28-1465, against a manufacturer of a certified ignition interlock device for improper reporting to the Department of ignition interlock data, as defined in R17-5-601~~, that may cause the Department to erroneously initiate corrective action against a person~~. The Director may impose and collect a civil penalty against a manufacturer of a certified ignition interlock device, who is responsible for an occurrence of improper reporting, as follows:

1. $100 for the first occurrence, but not to exceed $1,000 per series of occurrences of improper reporting on a specific date;
2. $250 for the second occurrence, but not to exceed $2,500 per series of occurrences of improper reporting on a specific date; and
3. $500 for the third or subsequent occurrence, but not to exceed $5,000 per series of occurrences of improper reporting on a specific date.

B. The Director, on finding that a manufacturer engaged in improper reporting, shall mail a notice to the manufacturer ~~a notice~~ stating that civil penalties may be imposed for improper reporting. The notice shall:

1. Specify the basis for the action; and
2. State that the manufacturer may, within 15 days after receipt of the notice, file a written request for a hearing with the Department's Executive Hearing Office as prescribed in 17 A.A.C. 1, Article 5.

C. A manufacturer who is aggrieved by an assessment, decision, or order of the Department under A.R.S. § 28-1465 and this Section may seek judicial review under A.R.S. Title 12, Chapter 7, Article 6.

D. The manufacturer shall pay the civil penalty imposed under this Section to the Department no later than 30 days after the order is final.

E. ~~Action to enforce the collection of a civil penalty assessed under subsection (A) shall be brought by the attorney general or the county attorney in the name of the state in the justice court or the superior court in which the hearing is held.~~ If the manufacturer fails to pay the civil penalty within 30 days after the order is final, the director may file an action in the superior court in the county in which the hearing is held to collect the civil penalty.

R17-5-621. Service Center Application

A. On approval by the Director of an IISP's signed application for authorization to provide ignition interlock services, an IISP shall submit to the Department for approval a properly completed service center application for approval of the IISP's service centers.

B. An IISP shall provide the following information to the Department:

1. The service center name, which shall match the name on the service center;
2. The business address of the established place of business of each service center or business location;
3. The telephone number of each established place of business of each service center or business location;
4. The service center's legal status as a sole proprietorship, partnership, limited liability company, or a corporation;
5. The name of the sole proprietor, each partner, officer, director, manager, member, agent, or 20% or more stockholder;
6. The name and model number of each CIID the IISP plans to install;
7. An indication of any service centers that will provide mobile services;
8. Any applicable business licenses and the governmental entity; and
9. The following statements signed by the IISP:
   a. A statement that all information provided on the application, including all information provided on any attachment to the application is complete, true, and correct;
   b. A statement that the IISP agrees to indemnify and hold harmless from all liability the state of Arizona and any department, division, agency, officer, employee, or agent of the state of Arizona;
   c. A statement that the IISP agrees to comply with all requirements in these rules; and
   d. A statement that the IISP agrees to immediately notify the Department of any change to the information provided on the application form.

C. The Department shall process an IISP's service center application only if the IISP meets all applicable application requirements.

D. The Department shall, within 10 days of receiving a service center application, provide notice to the IISP that the application is either complete or incomplete.

1. The date of receipt is the date the Department receives the application.
2. If an application is incomplete, the notice shall specifically identify the required information that is missing.

E. An IISP with an incomplete application shall provide all missing information to the Department within 15 days of the date on the Department's notice.

1. After receiving all of the required information, the Department shall notify the IISP that the application is complete.
2. The Department may deny approval of a service center if the IISP fails to provide the required information within 15 days of the date on the notice.

F. The Department shall render a decision on a service center application within 30 days of the date indicated on the notice acknowledging receipt of a complete application provided to the IISP under subsections (D) or (E).

G. For the purpose of A.R.S. § 41-1073, the Department establishes the following time frames for processing an application for approval of a service center:

1. Administrative completeness review time frame: 10 days.
2. Substantive review time frame: 30 days.
3. Overall time frame: 40 days.

H. If a service center is no longer authorized by a manufacturer to install its CIID, the IISP shall notify the Department within 24 hours.

I. An IISP shall be the authorized representative of a specific manufacturer while the authorization agreement is in effect, for a service center to install the manufacturer's CIID.

J. If an IISP, subcontractor, or agent opens or relocates a service center, or the service center is operated by another entity, an IISP, subcontractor, or agent shall submit a new service center application for approval.

K. An IISP shall use this process to reapply to the Department for a service center application.

NOTICES OF FINAL EXPEDITED RULEMAKING

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

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

NOTICE OF FINAL EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES COMMUNICABLE DISEASES AND INFESTATIONS

[R20-85]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) — **Rulemaking Action**

Article 8	Amend
R9-6-801	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. §§ 36-136(A)(7) and 36-136(G)

Implementing statutes: A.R.S. §§ 13-1210 and 36-136(I)(1), and Laws 2019, Ch. 97

3. The effective date of the rules:

May 7, 2020

4. Citations to all related notices published in the *Register* that pertain to the record of the final expedited rulemaking:

Notice of Rulemaking Docket Opening: 26 A.A.R. 291, February 14, 2020

Notice of Proposed Expedited Rulemaking: 26 A.A.R. 429, March 13, 2020

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

Name: Ken Komatsu, State Epidemiologist

Address: Department of Health Services
Public Health Preparedness
150 N. 18th Ave., Suite 100
Phoenix, AZ 85007-3248

Telephone: (602) 364-3909

Fax: (602) 364-3199

E-mail: Ken.Komatsu@azdhs.gov

or

Name: Stephanie Elzenga, Acting 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

6. 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.) § 36-136(I)(1) requires the Arizona Department of Health Services (Department) to make rules defining and prescribing "reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases." A.R.S. § 13-1210 authorizes specific individuals and their employing entities to petition for court-ordered testing of the blood of the alleged perpetrator of an assault on the individual. The Department has adopted in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6, Article 8, rules to implement these statutes. Laws 2019, Ch. 97, amends A.R.S. § 13-1210 by adding hospital employees to those who may "petition the court for an order authorizing testing of another person for the human immunodeficiency virus, common blood borne diseases or other diseases specified in the petition." After receiving an exception from the Governor's rulemaking moratorium established by Executive Order 2019-01, the Department has revised the rule by expedited rulemaking to make this change to comply with the requirements in A.R.S § 13-1210. The 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. 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.

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

The Department did not review or rely on any study for this rulemaking.

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

Not applicable

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

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

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

Between the proposed expedited rulemaking and the final expedited rulemaking, no changes were made to the rulemaking.

11. Agency's summary of the pubic or stakeholder comments or objections made about the rulemaking and the agency response to the comments:

The Department did not receive public or stakeholder comments about the rulemaking.

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

There are no other matters prescribed by statute 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 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.

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

None

14. Whether the rule was previously made, amended, or repealed as an emergency rules. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made as an emergency rule.

15. 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 FINAL EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

[R20-86]

PREAMBLE

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

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. The effective date of the rules:

May 6, 2020

4. 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

Notice of Proposed Expedited Rulemaking: 26 A.A.R. 431, March 13, 2020

5. 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

6. 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.

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

The Department did not review or rely on any study for this rulemaking.

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

Not applicable

9. The 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.

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

Between the proposed expedited rulemaking and the final expedited rulemaking, the only changes made to the rulemaking were to correct the revision dates for incorporations by reference, make related clarifying text changes, and correct the URLs at which documents can be accessed. The dates currently specified in the rules are for the last annual review of the cited regulation at the time of the rulemaking that related to the subsection containing the incorporation, rather than the date that changes were actually last made to the regulation.

11. Agency's summary of the pubic or stakeholder comments or objections made about the rulemaking and the agency response to the comments:

The Department received no written or oral comments about the rulemaking.

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

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

According to A.R.S. Title 30, Chapter 4, 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 of the competitiveness of business in this state to the impact on business in other states:

No such analysis was submitted.

13. 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, in the definition of "certifiable cabinet x-ray system"; 21 CFR 1010.2 and 21 CFR 1020.40, in the definition of "certified cabinet x-ray system"; 40 CFR 190 and 191, in the definition of "generally applicable environmental radiation standards"; 49 CFR 173.403, in the definition of "nuclear waste"; 10 CFR 35.50(a) and (c)(1) and 10 CFR 35.59, in the definition of "Radiation Safety Officer"; and 49 CFR 107, and 171 through 180, in the definition of "regulations of the U.S Department of Transportation."
- In R9-7-1510: 49 CFR 173.403, in subsection (B)(2)(b); 49 CFR 173 and 178, in subsection (C); 49 CFR 173.403, in subsection (C)(3); 49 CFR 171.23, in subsection (D)(1); and 49 CFR 173.443, in subsection (E)(9).
- In R9-7-1927: 10 CFR 73, in subsection (A)(4); and 10 CFR 37.7, 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, according to the Agreement, 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)

14. Whether the rule was previously made, amended, or repealed as an emergency rules. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made as an emergency rule.

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - 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://www.azdhs.gov/documents/licensing/radiation-regulatory/arizona-agreement.pdf.

D. Federal regulations incorporated by reference in this Chapter are available from the U.S. Government ~~Printing~~ Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 and ~~http://www.gpoaccess.gov/cfr/~~ https://www.govinfo.gov/app/collection/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~~ 2019, 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~~ 2019, 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 = S 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 (1×10^{-5} $\mu Ci/cm^2$) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm^2 (1×10^{-6} $\mu Ci/cm^2$) 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 3.7E + 1010 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/cm2).

"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 = S 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, revised December 1, 1979, and 40 CFR 191, revised ~~July 1, 2013~~ December 20, 1993, 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~~ January 8, 2015, incorporated by reference, ~~and~~ available under R9-7-101~~;~~, ~~this incorporated material contains~~ and containing 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), revised July 16, 2018, and 10 CFR 35.59, ~~(~~revised ~~January 1, 2010~~ March 27, 2006, incorporated by reference, ~~and~~ available under R9-7-10~~.~~, ~~This incorporated material contains~~ and containing 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, revised April 19, 2017; 49 CFR 171, revised April 19, 2017; 49 CFR 172, revised November 23, 2015; 49 CFR 173, revised March 6, 2019; 49 CFR 174, revised February 28, 2019; 49 CFR 175, revised October 18, 2018; 49 CFR 176, November 7, 2018; 49 CFR 177, revised September 25, 2013; 49 CFR 178, revised November 7, 2018; 49 CFR 179, revised September 25, 2018; and 49 CFR ~~through~~ 180, revised ~~October 1, 2013~~ March 30, 2017, incorporated by reference, ~~and~~ available under R9-7-101~~.~~, ~~This incorporated material contains~~ and containing 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:

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

"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";
   ~~c.~~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.**~~**F.** 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~~.~~; and
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~~ revised January 8, 2015, incorporated by reference, ~~and~~ available under R9-7-101~~.~~, ~~This incorporated material contains~~ and containing 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, revised July 16, 2018, and 49 CFR 178, ~~(Revised October 1, 2010~~ revised March 11, 2013, incorporated by reference, ~~and~~ available under R9-7-101~~.~~, ~~This incorporated material contains~~ and containing 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~~ January 1, 2015, incorporated by reference, ~~and~~ available under R9-7-101~~.~~, ~~This incorporated material contains~~ and containing 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[(grams of 235U/X) + (grams of 235U/Y) + 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~~ March 30, 2017, incorporated by reference, ~~and~~ available under R9-7-101~~.~~, ~~This incorporated material contains~~ and containing 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~~ September 9, 2015~~, 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~~ July 11, 2014, incorporated by reference, ~~and~~ available under R9-7-101~~.~~, ~~This incorporated material contains~~ and containing 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 any 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 category 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~~ December 12, 2018, incorporated by reference, ~~and~~ available under R9-7-101~~.~~, ~~This incorporated material contains~~ and containing 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~~ November 29, 2019, 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, Washing-~~

~~ton, 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 301-492-3531~~ 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 EMERGENCY RULEMAKING

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

The Office of the Secretary of State is the filing office and publisher of these rules.

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

NOTICE OF EMERGENCY RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

[R20-80]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) — **Rulemaking Action**

R4-33-702 — Amend
R4-33-703.1 — Amend

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

Authorizing statute: A.R.S. § 36-446.03(A)
Implementing statute: A.R.S. §§ 36-446.03(O) and 36-446.15

3. The effective date of the rule:

May 5, 2020

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

An immediate effective date is justified under A.R.S. § 41-1032 (A)(1) to preserve public health and safety. The World Health Organization has declared the novel coronavirus (Covid-19) outbreak to be a pandemic. Known cases are in every state and the death rate is concerning. As of April 14, 2020, there were 3,806 confirmed cases in Arizona and 131 Arizonans had died from the virus. Covid-19 disproportionately affects the elderly and those with underlying health conditions. This is the population served by assisted living facilities. To provide care to this potentially affected and fragile population, additional assisted living facility caregivers are needed. This rulemaking, which enables AHCCCS-trained in-home direct care workers to become assisted living facility caregivers with minimal additional training, is an important way for the state to address Covid-19.

An immediate effective date is justified also under A.R.S. § 41-1032 (A)(3) to comply with a deadline in an amendment to the Board's governing law. A.R.S. § 36-446.03(O) says the Board was to complete this rulemaking by June 1, 2020. The Board has worked diligently on this rulemaking but it will not be in effect by June 1, 2020, without this emergency rulemaking. An immediate effective date will minimize the time beyond June 1, 2020, for effect. The statutory amendment of A.R.S. 36-446.03(O) went into effect in August 2019. The Board immediately initiated this rulemaking. An original exemption from executive order 2019-01 was provided on September 19, 2019, but was contingent on review of a draft of the Notice of Proposed Rulemaking. The Board filed the Notice of Rulemaking Docket Opening On December 11, 2019. An exemption based on the draft of the Notice of Proposed Rulemaking was provided on February 27, 2020. The Notice of Proposed Rulemaking was filed on March 12, 2020. An exemption for an emergency rulemaking was provided by Trista Guzman Glover on April 15, 2020.

Additionally, an immediate effective date is justified under A.R.S. § 41-1032(A)(4). Increasing the number of individuals qualified to work with little additional training as caregivers in assisted living facilities provides a benefit to the public and there is no penalty associated with violation of the rules.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

4. Citations to all related emergency rulemaking notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:

None

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

Name: Allen Imig, Executive Director
Address: Board of Examiners for Nursing Care Administrators and Assisted Living Facility Managers
1740 W. Adams St., Suite 2490
Phoenix, AZ 85007

Telephone: (602) 542-8156
Fax: (602) 542-8316
E-mail: allen.imig@azncia board.us

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

Under Laws 2019, Chapter 280, the legislature enacted A.R.S. § 36-446.15 indicating an individual who complies with the AHCCCS training and competency requirements for an in-home direct care worker satisfies the Board's training requirements for an assisted living facility caregiver except for training regarding medication management. The legislation instructed the Board to make rules for assisted living facility caregivers consistent with the training, competency, and test methodology standards developed by the AHCCCS for in-home direct care workers. A.R.S. § 35-446.03(O) required the Board to complete the rulemaking by June 1, 2020. An exemption from Executive Order 2019-01 was provided for this rulemaking by Emily Rajakovich, of the Governor's Office, by e-mail dated September 19, 2019. The draft Notice of Proposed Rulemaking was approved by Trista Guzman Glover, Director of Boards and Commissions, by e-mail dated February 27, 2020.

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

The Board did not review or rely on a study in its evaluation of or justification for these rules.

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

Not applicable

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

The rulemaking has minimal economic impact because it simply makes the rules consistent with the legislative instruction at A.R.S. § 36-446.03(O). The economic impact of the legislation may be significant for in-home direct care workers and owners of assisted living facility training programs.

10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:

Under A.R.S. § 36-446.03(O), the rulemaking is to be completed by June 1, 2020.

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 Board does not issue general permits. Rather, the Board issues individual licenses as required by the Board's statutes to each person that is qualified by statute and rule.

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

There is no federal law specifically applicable to this rulemaking.

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

No analysis was submitted.

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

None

12. An agency explanation about the situation justifying the rulemaking as an emergency rule:

The rulemaking is justified as an emergency rulemaking under A.R.S. § 41-1026(A)(1) to protect public health, safety, or welfare and under (A)(2), to comply with a deadline in an amendment to the Board's governing law (See A.R.S. § 36-446.03(O)).

The rulemaking will protect public health, safety, and welfare. The World Health Organization has declared the novel coronavirus (Covid-19) outbreak to be a pandemic. Known cases are in every state and the death rate is concerning. As of April 14, 2020, there were 3,806 confirmed cases in Arizona and 131 Arizonans had died from the virus. Covid-19 disproportionately affects the elderly and those with underlying health conditions. This is the population served by assisted living facilities. To provide care to this potentially affected and fragile population, additional assisted living facility caregivers are needed. This rulemaking, which enables AHCCCS-trained in-home direct care workers to become assisted living facility caregivers with minimal additional training, is an important way for the state to address Covid-19.

The rulemaking will enable the Board to comply with a deadline in an amendment to the Board's governing law. A.R.S. § 36-446.03(O) says the Board was to complete this rulemaking by June 1, 2020. The Board has worked diligently on this rulemaking but it will not be in effect by June 1, 2020, without this emergency rulemaking. An immediate effective date will minimize the time beyond June 1, 2020, for effect. The statutory amendment of A.R.S. 36-446.03(O) went into effect in August 2019. The Board immediately initiated this rulemaking. An original exemption from executive order 2019-01 was provided on September 19, 2019, but was contingent on review of a draft of the Notice of Proposed Rulemaking. The Board filed the Notice of Rulemaking Docket Opening On December 11, 2019. An exemption based on the draft of the Notice of Proposed Rulemaking was provided on February 27, 2020. The Notice of Proposed Rulemaking was filed on March 12, 2020.

13. The date the Attorney General approved the rule:

May 5, 2020

14. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS

Section
R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program
R4-33-703.1 Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program

ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS

R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program

A. Organization and administration. The owner of an assisted living facility caregiver training program shall:

1. Provide the Board with a written description of the training program that includes:
   a. Length of the training program in hours:
      i. Number of hours of classroom instruction,
      ii. Number of hours of skills training, and
      iii. Number of hours of distance learning, and
   b. Educational goals that demonstrate the training program is consistent with state requirements;
2. Develop and adhere to written policies and procedures regarding:
   a. Attendance. Ensure that a student receives at least 62 hours of instruction;
   b. Grading. Require a student to attain at least 75 percent on each ~~theoretical~~ knowledge examination or 75 percent on a comprehensive ~~theoretical~~ knowledge examination;
   c. Reexamination. Inform students that a reexamination:
      i. Addresses the same competencies examined in the original examination,
      ii. Contains items different from those on the original examination, and
      iii. Is documented in the student's record;
   d. Student records. Include the following information:
      i. Records maintained,
      ii. Retention period for each record,
      iii. Location of records,
      iv. Documents required under subsections (G)(1) and (G)(2), and
      v. Procedure for accessing records and who is authorized to access records;
   e. Student fees and financial aid, if any;
   f. Withdrawal and dismissal;
   g. Student grievances including a chain of command for disputing a grade;
   h. Admission requirements including any criminal background or drug testing required;
   i. Criteria for training program completion; and
   j. Procedure for documenting that a student has received notice of the fingerprint clearance card requirement before the student is enrolled;
3. Date each policy and procedure developed under subsection (A)(2), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
4. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
   a. Name of the student;
   b. Name and classroom location of the training program;
   c. Number of classroom, skills training, and distance learning hours in the training program;
   d. Date on which the training program was completed;
   e. Board's approval number of the training program; and
   f. Signature of the training program owner, administrator, or instructor;
5. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
   a. Student's name, date of birth, Social Security number, address, and telephone number;
   b. Student's examination score as provided by a Board-approved provider;
   c. Name and classroom location of the training program;
   d. Number of classroom hours in the training program;
   e. Number of distance learning hours in the training program;
   f. Number of skills training hours in the training program;
   g. Date on which the training program was completed; and
   h. Board's approval number of the training program; and
6. Execute and maintain under subsections (G)(1) and (G)(2) the following documents for each student:
   a. A skills checklist containing documentation the student achieved competency in the assisted living facility caregiver skills listed in R4-33-703(C),
   b. A copy of the current food-handler's card issued to the student by the county in which the student lives, and

c. An evaluation form containing the student's responses to questions about the quality of the instructional experiences provided by the training program.

B. Program administrator responsibilities. The owner of an assisted living facility caregiver training program shall ensure that a program administrator performs the following responsibilities:
1. Supervises and evaluates the training program,
2. Uses only instructors who are qualified under subsection (C), and
3. Makes the written policies and procedures required under subsection (A)(2) available to each student on or before the first day of the training program;

C. The owner of an assisted living facility caregiver training program shall ensure that a program instructor is qualified under subsection (C)(1), (C)(2), or (C)(3):
1. Is a certified assisted living facility manager:
   a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
   b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least two years;
   c. Has not been subject to disciplinary action against the assisted living facility manager certificate during the last two years; and
   d. Has at least two years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
2. Is a licensed health professional:
   a. Holds a license that is in good standing and issued under A.R.S. Title 32, Chapter, 13, 15, 17, or 25;
   b. Has held the health professional license referenced in subsection (C)(2)(a) for at least two years;
   c. Has not been subject to disciplinary action against the health professional license during the last two years; and
   d. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor; or
3. Other qualified individual:
   a. Holds at least a baccalaureate degree in a health-related field from an accredited college or university;
   b. Has not been subject to disciplinary action against any professional or occupational license or certificate during the last two years; and
   c. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor.

D. The owner of an assisted living facility caregiver training program shall ensure that a program instructor performs the following responsibilities:
1. Plans each learning experience,
2. Accomplishes educational goals of the training program and lesson objectives,
3. Enforces a grading policy that meets the requirement specified in subsection (A)(2)(b),
4. Requires satisfactory performance of all critical elements of each assisted living facility caregiver skill specified under R4-33-703(C),
5. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
6. Is present in the classroom during all instruction,
7. Uses a maximum of 20 hours of distance learning,
8. Supervises health professionals who assist in providing training program instruction, and
9. Ensures that a health professional who assists in providing training program instruction:
   a. Is licensed or certified as a health professional,
   b. Has at least one year of experience in the field of licensure or certification, and
   c. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.

E. Skill training requirements. The owner of an assisted living facility caregiver training program shall:
1. Provide each student with at least 12 hours of instructor-supervised skills training, and
2. Ensure that each student develops skill proficiency in the subjects listed in R4-33-703(C).

F. Instructional and educational resources. The owner of an assisted living facility caregiver training program shall provide, or provide access to, the following instructional and educational resources adequate to implement the training program for all students and staff:
1. Current reference materials related to the level of the curriculum;
2. Equipment in functional condition for simulating resident care, including:
   a. Patient bed, over-bed table, and nightstand;
   b. Privacy curtain and call bell;
   c. Thermometers, stethoscopes, including a teaching stethoscope, blood-pressure cuff, and balance scale;
   d. Hygiene supplies, elimination equipment, drainage devices, and linens;
   e. Hand-washing equipment and clean gloves; and
   f. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
3. Computer in good working condition;
4. Audio-visual equipment and media; and
5. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;

G. Records. The owner of an assisted living facility caregiver training program shall:
1. Maintain the following training program records for three years:
   a. Curriculum and course schedule for each student cohort;
   b. Results of state-approved written examination and skills checklist;

c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
d. Copy of all Board reports, applications, or correspondence related to the training program; and
2. Maintain the following student records for three years:
a. Name, date of birth, and Social Security number;
b. Completed skills checklist;
c. Attendance record including a record of any make-up class sessions;
d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken;
e. Documentation from the program instructor indicating the:
i. Number of skills training hours completed by the student,
ii. Student performance during the skills training, and
iii. Verification of distance learning hours completed by the student; and
f. Copy of the evidence of completion issued to the student as required under subsection (A)(4);

H. Examination and evaluation requirements for students. The owner of an assisted living facility caregiver training program shall ensure each student in the training program:
1. Takes an examination that covers each of the subjects listed in R4-33-703(C) and passes each examination using the standard specified in subsection (A)(2)(b);
2. Is evaluated and determined to possess the practical skills listed in R4-33-703(C);
3. Passes, using the standard specified in subsection (A)(2)(b), a final examination approved by the Board and given by a Board-approved provider; and
4. Does not take the final examination referenced in subsection (H)(3) more than three times. If a student fails the final examination referenced in subsection (H)(3) three times, the student is able to obtain evidence of completion only by taking the assisted living facility caregiver training program again;

I. Examination passing standard. The owner of an assisted living facility caregiver training program shall attain an annual first-time passing rate of 70 percent for all students who take the examination specified under subsection (H)(3). The Board may waive this requirement for a program if fewer than 10 students took the examination during the year.

J. Periodic evaluation. The owner of an assisted living facility caregiver training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
1. A scheduled evaluation:
a. Before initial approval of the training program as specified under R4-33-704(D),
b. Before renewal of the training program approval as specified under R4-33-705(C), and
c. During a time of correction as specified under R4-33-706(B); and
2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board;

K. Notice of change. The owner of an assisted living facility caregiver training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
1. New training program administrator. Name and license number;
2. New instructor. Name, license number, and evidence of being qualified under subsection (C);
3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
4. Change in classroom location. Address of new location, if applicable, and description of the new classroom; and
5. For a training program that is based within an assisted living facility:
a. Change in name of the facility. Former and new name of the assisted living facility; and
b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.

L. ~~Reduced hours~~ Medication management training program. The owner of an assisted living facility caregiver training program may provide a ~~reduced hours~~ medication management training program for a student who, at the time of admission, is in good standing and a CNA, LNA, or DCW.
~~1.~~ The owner ~~of an assisted living facility caregiver training program~~ shall ensure ~~a reduced hours~~ the medication management training program provides ~~the following:~~
~~a. For a CNA or LNA,~~ the classroom instruction listed in subsection R4-33-703(C)(14) and meets the standards in R4-33-703.1~~; and~~
~~b. For a DCW, the classroom instruction listed in subsections R4-33-703(C)(1) through (C)(8), (C)(11), (C)(12), and (C)(14).~~
~~2. The owner of an assisted living facility caregiver training program shall ensure a CNA, LNA, or DCW in a reduced hours training program or a CMA complies fully with the examination and evaluation requirements in subsection (H).~~

R4-33-703.1. Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program

A. An assisted living facility caregiver medication management training program may be established by:
1. The owner or manager of an assisted living facility, or
2. The owner of an assisted living facility caregiver training program.

B. A person under subsection (A) may offer an assisted living facility caregiver medication management training program to: ~~a CNA or LNA who is in good standing.~~
1. A CNA who is in good standing and whose certification by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified;
2. An LNA who is in good standing and whose licensure by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified; and
3. A DCW who is in good standing and whose training, including training about caregiving fundamentals and aging and physical disabilities, and testing record is verified through the AHCCCS online database.

C. A person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall ensure the assisted living facility caregiver medication management training program:
1. Consists of at least the 16 classroom hours specified under R4-33-703(C)(14);
2. Is not taught by distance learning;
3. Is taught by a health professional who holds a license in good standing and issued under A.R.S. Title 32, Chapter 13, 15, 17, 18, or 25; and
4. ~~Complies fully with the~~ Requires passing an examination ~~and evaluation requirements specified in R4-33-702(H)~~ regarding assisted living facility caregiver medication management, using the standard specified in R4-33-702(A)(2)(b), that is approved by the Board and given by a Board-approved provider. An individual under subsection (B) shall pass the required examination in no more than three attempts. After failing three times, the individual may take the assisted living facility caregiver medication management program again.

D. In addition to complying with subsection (C), a person under subsection (A) shall ensure each individual under subsection (B) who participates in an assisted living facility caregiver medication management training program:
1. Receives notice, before participating in the training program, of:
   a. The fingerprint clearance card requirement, and
   b. The need to obtain a food-handler's card from the county in which the individual lives.
2. Provides written documentation, which is dated and signed, indicating the person under subsection (A) complied with subsection (D)(1). The person under subsection (A) shall maintain the written documentation under R4-33-702(G)(2).

~~**D.**~~**E.** In addition to complying with subsection (C), a person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall comply with the following subsections of R4-33-702:
1. (A)(4)(a), (b), and (d) through (f);
2. (A)(5)(a) through (d), (g), and (h);
3. (A)(6)(b) and (c);
4. (G)(1)(b) through (d);
5. (G)(2)(a), (c), ~~through~~ (d), and (f);
6. (I) and
7. (J).

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
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PSM# = Proposed Summary renumbered Section
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FSMM = Final Summary amended Section
FSMR = Final Summary repealed Section
FSM# = Final Summary renumbered Section

EXPEDITED RULEMAKING
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PEM = Proposed Expedited amended Section
PER = Proposed Expedited repealed Section
PE# = Proposed Expedited renumbered Section
SUPPLEMENTAL EXPEDITED
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SPER = Supplemental Proposed Expedited repealed Section
SPE# = Supplemental Proposed Expedited renumbered Section
FINAL EXPEDITED
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FEM = Final Expedited amended Section
FER = Final Expedited repealed Section
FE# = Final Expedited renumbered Section

EXEMPT RULEMAKING
EXEMPT
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XM = Exempt amended Section
XR = Exempt repealed Section
X# = Exempt renumbered Section
EXEMPT PROPOSED
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PXM = Proposed Exempt amended Section
PXR = Proposed Exempt repealed Section
PX# = Proposed Exempt renumbered Section
EXEMPT SUPPLEMENTAL PROPOSED
SPXN = Supplemental Proposed Exempt new Section
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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

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RULES EFFECTIVE DATES CALENDAR

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

January		February		March		April		May		June	
Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	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
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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	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	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
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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
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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
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
April 10, 2020	May 1, 2020	June 2, 2020
April 17, 2020	May 8, 2020	June 8, 2020
April 24, 2020	May 15, 2020	June 15, 2020
May 1, 2020	May 22, 2020	June 22, 2020
May 8, 2020	May 29, 2020	June 29, 2020
May 15, 2020	June 5, 2020	July 6, 2020
May 22, 2020	June 12, 2020	July 13, 2020
May 29, 2020	June 19, 2020	July 20, 2020
June 5, 2020	June 26, 2020	July 27, 2020
June 12, 2020	July 3, 2020	August 3, 2020
June 19, 2020	July 10, 2020	August 10, 2020
June 26, 2020	July 17, 2020	August 17, 2020
July 3, 2020	July 24, 2020	August 24, 2020
July 10, 2020	July 31, 2020	August 31, 2020
July 17, 2020	August 7, 2020	September 8, 2020
July 24, 2020	August 14, 2020	September 14, 2020
July 31, 2020	August 21, 2020	September 21, 2020
August 7, 2020	August 28, 2020	September 28, 2020
August 14, 2020	September 4, 2020	October 5, 2020
August 21, 2020	September 11, 2020	October 13, 2020
August 28, 2020	September 18, 2020	October 19, 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
Tuesday November 19, 2019	*Tuesday* December 24, 2019	*Tuesday* January 7, 2020	*Tuesday* January 14, 2020
Tuesday December 24, 2019	*Tuesday* January 21, 2020	*Tuesday* January 28, 2020	*Tuesday* February 4, 2020
Tuesday January 21, 2020	*Tuesday* February 18, 2020	*Tuesday* February 25, 2020	*Tuesday* March 3, 2020
Tuesday February 18, 2020	*Tuesday* March 24, 2020	*Tuesday* March 31, 2020	*Tuesday* April 7, 2020
Tuesday March 24, 2020	*Tuesday* April 21, 2020	*Tuesday* April 28, 2020	*Tuesday* May 5, 2020
Tuesday April 21, 2020	*Tuesday* May 19, 2020	***Wednesday*** May 27, 2020	*Tuesday* June 2, 2020
Tuesday May 19, 2020	*Tuesday* June 23, 2020	*Tuesday* June 30, 2020	*Tuesday* July 7, 2020
Tuesday June 23, 2020	*Tuesday* July 21, 2020	*Tuesday* July 28, 2020	*Tuesday* August 4, 2020
Tuesday July 21, 2020	*Tuesday* August 18, 2020	*Tuesday* August 25, 2020	*Tuesday* September 1, 2020
Tuesday August 18, 2020	*Tuesday* September 22, 2020	*Tuesday* September 29, 2020	*Tuesday* October 6, 2020
Tuesday September 22, 2020	*Tuesday* October 20, 2020	*Tuesday* October 27, 2020	*Tuesday* November 3, 2020
Tuesday October 20, 2020	*Tuesday* November 17, 2020	*Tuesday* November 24, 2020	*Tuesday* December 1, 2020
Tuesday November 17, 2020	*Tuesday* December 22, 2020	*Tuesday* December 29, 2020	*Tuesday* January 5, 2021
Tuesday December 29, 2020	*Tuesday* January 19, 2021	*Tuesday* January 26, 2021	*Tuesday* 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.

GOVERNOR'S REGULATORY REVIEW COUNCIL

NOTICE OF ACTION TAKEN AT THE MAY 5, 2020 MEETING

[M20-25]

A. CONSENT AGENDA ITEMS:

Rulemakings

1. **DEPARTMENT OF HEALTH SERVICES (R20-0506)**
Title 9, Chapter 6, Article 8, Assaults on Public Safety Employees and Volunteers

Amend: Article 8, R9-6-801

2. **DEPARTMENT OF HEALTH SERVICES (R20-0505)**
Title 9, Chapter 7, Articles 1, 3, 4, 15, and 19, Radiation Control

Amend: R9-7-101, R9-7-102, R9-7-302, R9-7-305, R9-7-313, R9-7-318, R9-7-448, R9-7-1507, R9-7-1510, R9-7-1514, R9-7-1907, R9-7-1923, R9-7-1927, R9-7-1977

3. **CITIZENS CLEAN ELECTIONS COMMISSION (R20-0501)**
Title 2, Chapter 20, Article 7, Use of Funds and Repayment

Amend: R2-20-702

Five Year Review Reports

4. **LEAFY GREENS FOOD SAFETY COMMITTEE (F20-0506)**
Title 3, Chapter 9, Article 6, Leafy Greens Food Safety Committee

COUNCIL ACTION: CONSENT AGENDA APPROVED

B. CONSIDERATION AND DISCUSSION OF RULEMAKINGS

1. **DEPARTMENT OF TRANSPORTATION (R20-0502)**
Title 17, Chapter 5, Article 6, Ignition Interlock Device Manufacturers and Ignition Interlock Service Providers

Amend: R17-5-601, R17-5-603, R17-5-604, R17-5-609, R17-5-610, R17-5-612, R17-5-616, R17-5-621

Repeal: R17-5-614

New Section: R17-6-614

COUNCIL ACTION: APPROVED

2. **BOARD OF PSYCHOLOGIST EXAMINERS (R20-0503)**
Title 4, Chapter 26, Article 2, Licensure

Amend: R4-26-203, R4-26-203.01, R4-26-205, R4-26-207, Table 1

COUNCIL ACTION: APPROVED

3. **BOARD OF PSYCHOLOGIST EXAMINERS (R20-0504)**
Title 4, Chapter 26, Article 4, Behavior Analysts

Amend: R4-26-401, R4-26-403, R4-26-404.1, R4-26-404.2, R4-26-406, R4-26-408, R4-26-415

Repeal: R4-26-407

COUNCIL ACTION: APPROVED

C. CONSIDERATION AND DISCUSSION OF FIVE YEAR REVIEW REPORTS

1. **DEPARTMENT OF CHILD SAFETY (F20-0503)**
   Title 21, Chapter 5, Article 1, Interstate Compact on the Placement of Children

   COUNCIL ACTION: APPROVED

2. **PHYSICIAN ASSISTANTS BOARD (F20-0504)**
   Title 4, Chapter 17, Articles 1-4, Arizona Regulatory Board of Physician Assistants

   COUNCIL ACTION: APPROVED

3. **DEPARTMENT OF REAL ESTATE (F20-0501)**
   Title 4, Chapter 28, Articles 4, 7, 8, and 12, State Real Estate Department

   COUNCIL ACTION: APPROVED

4. **STATE BOARD OF MASSAGE THERAPY (F19-1004)**
   Title 4, Chapter 15, Board of Massage Therapy

   COUNCIL ACTION: APPROVED

D. CONSIDERATION AND DISCUSSION OF 180 DAY EXTENSION REQUEST FOR ONE YEAR REVIEW REPORT FROM DEPARTMENT OF AGRICULTURE
COUNCIL ACTION: 180 DAY EXTENSION GRANTED