

**C-1**

**ARIZONA STATE RETIREMENT SYSTEM (Expedited Rulemaking)**

Title 2, Chapter 8, Article 7

**Amend:** R2-8-701, R2-8-704, R2-8-706, R2-8-707



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 13, 2022

**SUBJECT:** Arizona State Retirement System Board (ASRS)

**Amend:** R2-8-701, R2-8-704, R2-8-706, R2-8-707

---

### Summary:

This expedited rulemaking from ASRS relates to rules in Title 2, Chapter 8, Article 7 regarding Contributions not Withheld. In this expedited rulemaking ASRS is proposing to amend the rules in response to their 5YRR proposed course of action, which was approved by the Council in May 2021. The proposed amendments will correct minor formatting and grammatical errors. More specifically, ASRS is amending these rules to clarify the processes for correcting a contributions not withheld error.

ASRS received approval from the rulemaking moratorium to initiate this rulemaking on June 1, 2021 and final approval to submit it to the Council on February 11, 2022.

1. **Do the rules satisfy the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)?**

Yes, ASRS is amending the rules to implement without material change, courses of action proposed in the Department's 5YRR approved by the Council in May 2021. This expedited rulemaking qualifies under A.R.S. § 41-1027(A)(7) (. "Implements,

without material change, a course of action that is proposed in a five-year review report approved by the council pursuant to section 41-1056 within one hundred eighty days of the date that the agency files the proposed expedited rulemaking with the secretary of state.”)

2. **Are the rules legal, consistent with legislative intent, and within the agency’s statutory authority?**

Yes, ASRS cites both general and specific statutory authority for this rule.

3. **Do the rules establish a new fee or contain a fee increase?**

No. This expedited rulemaking does not establish a new fee or contain a fee increase.

4. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

No, the ASRS indicates they did not receive any written comments regarding this rulemaking.

5. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The ASRS did not make any changes to the rule between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable, there are no corresponding federal laws to the rules.

7. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable, the rules do not require a permit.

8. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department did not review or rely on a study in conducting this expedited rulemaking.

9. **Conclusion**

In this expedited rulemaking, the ASRS seeks to amend rules to implement without material change, courses of action proposed in the Department's 5YRR approved by the Council in May 2021.. This expedited rulemaking meets the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(7). If approved, this expedited rulemaking would be effective immediately upon the Department filing the Notice of Final Expedited Rulemaking and Certificate of Approval with the Secretary of State. Council staff recommends approval of this expedited rulemaking.

3/1/2022

Ms. Nicole Sornsin, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 2. Administration  
Chapter 8. State Retirement System Board**

Dear Ms. Sornsin:

The attached final expedited rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the expedited rule package:

1. Close of record date: The rulemaking record was closed on December 31, 2021 following a period for public comment.
2. Explanation of meeting A.R.S. § 41-1027(A): A.R.S. § 41-1027(A)(7) allows an agency to complete an expedited rulemaking if it "implements, without material change, a course of action that is proposed in a five-year review report approved by the council." In its 2021 five-year review report, the ASRS proposed to make these changes and the Council approved that proposed action in May 2021.
3. Relation of the rulemaking to a five-year-review report: This rulemaking relates to the Five-year Review Report approved by the Council in May 2021.
4. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.
6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.
7. List of documents enclosed:
  - a. Cover letter signed by the Board's Assistant Director; and
  - b. Notice of Final Expedited Rulemaking including the preamble, table of contents for the rulemaking, and rule text.

Sincerely,



Jeremiah Scott  
Assistant Director

**NOTICE OF FINAL EXPEDITED RULEMAKING**  
**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**PREAMBLE**

**1. Articles, Parts, and Sections Affected**

**Rulemaking Action**

R2-8-701	Amend
R2-8-704	Amend
R2-8-706	Amend
R2-8-707	Amend

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

Authorizing statute: A.R.S. § 38-714(E)(4)  
Implementing statutes: A.R.S. §§ 38-711 et seq.

**3. The effective date for the rules:**

**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):**

None

**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 Proposed Expedited Rulemaking: 27 A.A.R. 2691, November 19, 2021

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

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Ste. 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-Mail: [Ruleswriter@azasrs.gov](mailto:Ruleswriter@azasrs.gov)

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

The agency needs to amend these rules consistent with its five-year review report that was approved by the Governor's Regulatory Review Council in May 2021. These amendments will correct minor formatting and grammatical errors. This rulemaking will also clarify the processes for correcting a contributions not withheld error. A.R.S. § 41-1027(A)(7) allows an agency to complete an expedited rulemaking if it "implements, without materials change, a course of action that is proposed in a five-year review report approved by the council." In its 2021 five-year review report, the ASRS proposed to make these changes and the Council approved that proposed action in May 2021.

**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:**

No study was reviewed.

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

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

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

None

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

The ASRS received no written comments regarding the rulemaking.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

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

Not applicable.

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

**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**

R2-8-701. Definitions.

R2-8-704. Member's Discovery of Error

R2-8-706. Determination of Contributions Not Withheld

R2-8-707. Submission of Payment

## ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

### R2-8-701. Definitions

The following definitions apply to this Article unless otherwise specified:

1. “218 agreement” means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage to employees of the state, political subdivision, or political subdivision entity.
2. “Documentation” means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:
  - a. Whether the employee was covered under the Employer’s 218 Agreement prior to July 24, 2014,
  - b. The number of hours the member worked or was Engaged to Work for the Employer per pay period, and
  - c. The amount and type of compensation earned by the member within each pay period.
3. “Eligible service” means employment with an Employer:
  - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
  - b. In which the member was Engaged to Work for an Employer.

4. “Engaged to Work” means the same as in R2-8-1001.

**R2-8-704. Member’s Discovery of Error**

- A.** If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:
1. Notify the member’s Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
  2. Submit to the ASRS a Contributions Not Withheld Request form through the member’s secure ASRS account with the following:
    - a. The name of the Employer that should have remitted contributions;
    - b. The range of dates that any contribution was not withheld;
    - c. The member’s position title during the date range listed in subsection (b);
    - d. Whether the member was Engaged to Work for the Employer; and
    - e. Dated signature of the member certifying the member understands:
      - i. The ASRS will be providing the member’s Social Security number to the Employer for verification; and
      - ii. If the member’s Employer cannot verify this request, it is the member’s responsibility to provide Documentation of Eligible Service.
- B.** If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer’s secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall either correct the information and submit the corrected information to the ASRS through the Employer’s secure ASRS account,

along with the information identified in R2-8-703 or cancel the request by notifying the member through ASRS secure messaging the reason the request was canceled.

- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member believes supports the allegation that contributions should have been withheld.

**R2-8-706. Determination of Contributions Not Withheld**

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B. Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
  2. The employee participates in:
    - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
    - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.

- C. Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D. If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E. The ASRS shall provide to each, ~~the~~ Employer and the member, an invoice with the following:
1. The amount of Eligible Service for which contributions were not withheld,
  2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
  3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,
  4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
  5. The dollar amount of contributions to be paid to the ASRS by the member.
- F. The ASRS shall send the member an invoice pursuant to subsection (E) after the Employer has remitted the full amount due to be paid by the Employer.

**R2-8-707. Submission of Payment**

- A. Within 90 days from the date on the statement invoice identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within

90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).

- B.** The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).
- C.** If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D.** A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
  3. The signature of the person submitting the petition, and
  4. The date the person signs the petition.
- B.** The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C.** The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact**

- A.** A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the person submitting the objection;
  2. Identification of the rule;
  3. Either evidence that the actual economic, small business and consumer impact:
    - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
    - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
    - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  4. The signature of the person submitting the objection; and
  5. The date the person signs the objection.
- B.** The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-606. Oral Proceedings**

- A.** A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
  2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
  3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B.** The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, tran-

scripts, lists, speaker slips, and written comments received shall become part of the official record.

- C.** A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
  2. Provide a Request to Present Oral Comment form that includes space for:
    - a. The name of the person submitting the Request to Present Oral Comment form,
    - b. The entity the person represents, if applicable, and
    - c. The rule on which the person wishes to comment or about which the person has a question;
  3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
  4. Explain the background and general content of the proposed rulemaking;
  5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
  6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D.** A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-607. Petition for Delayed Effective Date**

- A.** A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
  2. Identification of the proposed rule;
  3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
  4. Reason why the public interest will not be harmed by the delayed effective date;
  5. Signature of the person submitting the petition; and
  6. Date the person signs the petition.
- B.** The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD****R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:
    - a. Whether the employee was covered under the Employer's 218 Agreement prior to July 24, 2014,
    - b. The number of hours the member worked for the Employer per pay period, and
    - c. The amount and type of compensation earned by the member within each pay period.
  3. "Eligible service" means employment with an Employer:
    - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
    - b. In which the member was Engaged to Work for an Employer.
  4. "Engaged to Work" means the same as in R2-8-1001.
  5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
  6. The member's hire date;
  7. Whether the member was Engaged to Work for the Employer;
  8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
  9. The dated signature of the Employer's authorized agent certifying:
    - a. All the dates and salary information is correct;
    - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
    - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
    - d. Acknowledgement the member will receive an invoice for their contributions owed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-702. General Information**

- A. The Employer shall pay the Employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not the member pays the member's portion of the contributions.
- B. The person who initiates the claim that contributions were not withheld for Eligible Service has the burden to prove a contribution error was made.
- C. The ASRS shall not waive payment of contributions or interest owed under this Article.
- D. If a member is not able to establish eligibility for purchasing service credit pursuant to this Article, the member may be eligible to purchase service pursuant to A.R.S. § 38-743 and Article 5 of this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-703. Employer's Discovery of Error**

If an Employer determines that any amount of contributions have not been withheld for a member for a period of Eligible Service, the Employer shall notify the ASRS by submitting through the Employer's secure ASRS account a Verification of Contributions Not Withheld form with the following information:

1. The member's full name;
2. The member's Social Security number;
3. The range of dates that any contribution was not withheld;
4. The member's position title during the date range listed in subsection (3);

**R2-8-704. Member's Discovery of Error**

- A. If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:
  1. Notify the member's Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
  2. Submit to the ASRS a Contributions Not Withheld Request form through the member's secure ASRS account with the following:
    - a. The name of the Employer that should have remitted contributions;
    - b. The range of dates that any contribution was not withheld;
    - c. The member's position title during the date range listed in subsection (b);
    - d. Whether the member was Engaged to Work for the Employer; and
    - e. Dated signature of the member certifying the member understands:
      - i. The ASRS will be providing the member's Social Security number to the Employer for verification; and
      - ii. If the member's Employer cannot verify this request, it is the member's responsibility to provide Documentation of Eligible Service.
- B. If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account, along with the information identified in R2-8-703.
- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

believes supports the allegation that contributions should have been withheld.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-705. ASRS' Discovery of Error**

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that all contributions have not been withheld for a member for a period of Eligible Service, the ASRS shall notify the Employer in writing and shall request the Employer submit through the Employer's secure ASRS account a Verification of Contributions Not Withheld form pursuant to R2-8-703.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-706. Determination of Contributions Not Withheld**

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B. Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
  1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
  2. The employee participates in:
    - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
    - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C. Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D. If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E. The ASRS shall provide to each, the Employer and the member, an invoice with the following:
  1. The amount of Eligible Service for which contributions were not withheld,
  2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
  3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,
  4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
  5. The dollar amount of contributions to be paid to the ASRS by the member.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-707. Submission of Payment**

- A. Within 90 days from the date on the statement identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within 90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- B. The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).
- C. If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D. A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-708. Expired****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

**R2-8-709. Repealed****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**ARTICLE 8. RECOVERY OF OVERPAYMENTS****R2-8-801. Definitions**

For purposes of this article, the following definitions apply, unless specified otherwise:

1. "DRO" means the same as in R2-8-120.
2. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
3. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
4. "LTD benefit" means the same as in R2-8-301

### 38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means:

(a) For members whose membership began on or before December 31, 2019, the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(i) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(ii) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(iii) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(iv) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(v) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

(b) For a member whose membership began on or after January 1, 2020, only gross wages paid to a member by the employer for services rendered to the employer during the period considered as credited service, including amounts reported as wages and tips and other compensation on the member's federal form W-2 wage and tax statement, including pretax deductions, except for the following:

(i) Payments made for accrued leave that is not being used to replace regular work hours, whether paid in a lump sum or in installments.

(ii) Payments made on termination from employment, whether paid in a lump sum or in installments or as a bonus or an incentive for termination or retirement.

(iii) Employer-paid contributions that are made to, and any distributions from, plans, programs or arrangements qualified under section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.

(iv) Payments for allowances.

(v) Reimbursements for employee business expenses or employee personal expenses.

(vi) Employer-paid contributions for coverage under, or distributions from, an accident, health or life insurance plan, program or arrangement.

(vii) Payments made in lieu of any employer-paid insurance coverage.

- (viii) Workers' compensation, unemployment compensation payments and disability payments.
  - (ix) Merit awards pursuant to section 38-613.
  - (x) Payments paid pursuant to a court order or settlement agreement to satisfy a claim even though the amount of the payment is based on previous salary or wage levels, except if the court order or settlement agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time.
  - (xi) Payments made in the form of goods or services in lieu of gross wages.
  - (xii) Any other payment that is not reported as wages and tips and other compensation on the member's federal W-2 wage and tax statement for actual services rendered.
  - (xiii) Payments in excess of the section 415 of the internal revenue code limits established in section 38-746.
  - (xiv) Payments for any other employment benefit.
  - (xv) Payments for which employer or employee contributions have not been paid.
8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.
9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.
10. "Current annual compensation" means the greater of:
- (a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.
  - (b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.
  - (c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.
  - (d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.
  - (e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.
11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.
12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

- (a) This state.

- (b) Participating political subdivisions.
  - (c) Participating political subdivision entities.
14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.
15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.
16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:
- (a) Has not retired.
  - (b) Is not eligible for active membership in ASRS.
  - (c) Is not currently making contributions to ASRS.
  - (d) Has not withdrawn contributions from ASRS.
17. "Interest" means the assumed actuarial investment earnings rate approved by the board.
18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.
19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.
20. "Late retirement" means retirement after normal retirement.
21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.
22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.
23. "Member":
- (a) Means any employee of an employer on the effective date.
  - (b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.
  - (c) Means any person receiving a benefit under ASRS.
  - (d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.
  - (e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.
  - (f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:
    - (i) Is not otherwise an employee of an employer.

(ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.

(iii) Performs services under the primary direction or control of the employer.

24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government-related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or

consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

### 38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and any member under articles 2.1 and 7 of this chapter and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.

2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.

3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.

4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.

2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.

3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

**ARIZONA STATE RETIREMENT SYSTEM**

Title 2, Chapter 8

**Amend:** R2-8-117, R2-8-304



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 13, 2022

**SUBJECT:** Arizona State Retirement System Board (ASRS)  
Title 2, Chapter 8, Articles 1 & 3

**Amend:** R2-8-117, R2-8-304

---

### **Summary:**

This regular rulemaking from ASRS relates to rules in Title 2, Chapter 8, Article 1 regarding Retirement System and Article 3 regarding Long-Term Disability. The ASRS seeks to amend two of its rules in order to clarify how the ASRS shall disburse benefits in compliance with the federally mandated Required Minimum Distribution (RMD) date in specific situations involving Long-Term Disability and Return to Work members. These amendments will increase understandability of how the ASRS complies with RMD requirements, resulting in rules that are more clear, concise, and understandable.

The ASRS is seeking a regular 60-day delayed effective date. The ASRS received approval from the rulemaking moratorium to initiate this rulemaking on June 1, 2021 and final approval to submit this rulemaking to the Council on February 11, 2022.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The ASRS cites both general and specific statutory authority for the rules.

2. **Do the rules establish a new fee or contain a fee increase?**

No, this rulemaking does not establish a new fee and does not contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The ASRS did not review or rely on a study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

Arizona State Retirement System (ASRS) rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. The rule will have minimal economic impact, if any, because it merely clarifies in further detail how the ASRS complies with Required Minimum Distribution (RMD) requirements.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.

6. **What are the economic impacts on stakeholders?**

All members of the ASRS, as well as their beneficiaries, will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 627,975.

This rule will provide direction to the public about when a member or employer may elect to purchase service. Such clarification will benefit members and employers by increasing the readability of the rules and restrictions on purchasing service. Specifically, members and employers may be affected based on the various transactions.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The ASRS did not make any changes to the rule between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking.

**8. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

No, the ASRS indicates they did not receive any written comments regarding this rulemaking.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable, the rules do not require a permit.

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable, there are no corresponding federal laws to the rules.

**11. Conclusion**

In this regular rulemaking the ASRS seeks to amend two of its rules to ensure the rules are consistent with the federally mandated RMD (Required Minimum Distribution) requirements. This rulemaking will result in rules that are more clear, concise, and understandable. The ASRS is seeking a regular 60-day delayed effective date. Council staff recommends approval of this regular rulemaking.

March 22, 2022

Ms. Nicole Sornsin, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 2. Administration  
Chapter 8. State Retirement System Board**

Dear Ms. Sornsin:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on December 20, 2021 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.
3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.
4. Immediate effective date: An immediate effective date is requested pursuant to A.R.S. § 41-1032(A).
5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.
6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.
7. List of documents enclosed:
  - a. Cover letter signed by the Board's Assistant Director;
  - b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
  - c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,



Jeremiah Scott  
Assistant Director

**NOTICE OF FINAL RULEMAKING**  
**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**PREAMBLE**

<b><u>1. Articles, Parts, and Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
R2-8-117	Amend
R2-8-304	Amend

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

Authorizing statute: A.R.S. § 38-714(E)(4)  
Implementing statutes: A.R.S. §§ 38-711 et seq.

**3. The effective date for the rules:**

**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):**

None

**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: 27 A.A.R. 2699, November 19, 2021

Notice of Proposed Rulemaking: 27 A.A.R. 2673, November 19, 2021

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

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Ste. 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-Mail: [Ruleswriter@azasrs.gov](mailto:Ruleswriter@azasrs.gov)

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

The ASRS needs to amend its rules relating to benefit distributions in specific situations. The ASRS is required to disburse benefits by a federally mandated Required Minimum Distribution (RMD) date. The ASRS needs to amend its rules in order to clarify how the ASRS shall disburse benefits in compliance with the RMD date in specific situations involving Long-Term Disability and Return to Work members. Finally, the ASRS needs to make additional clarifying changes to ensure its rules are consistent regarding RMD requirements. These rules will increase understandability of how the ASRS complies with RMD requirements.

**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:**

No study was reviewed.

**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 ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies in further detail how the ASRS complies with RMD requirements.

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

None

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

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on December 20, 2021.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

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

Not applicable.

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

**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**ARTICLE 1. RETIREMENT SYSTEM**

Section

R2-8-117. Return to Work After Retirement

**ARTICLE 3. LONG-TERM DISABILITY**

R2-8-304. Payments of Long-Term Disability Benefit

## ARTICLE 1. RETIREMENT SYSTEM

### **R2-8-117. Return to Work After Retirement**

**A.** Unless otherwise specified, in this Section:

1. “Commencing employment” means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders services directly to an Employer for which the retired member is entitled to be paid.
2. “Returns to work” means the member retired from the ASRS prior to Commencing Employment with an Employer.

**B.** Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member’s current Employers through the retired member’s secure website account within 30 days of the retired member Commencing Employment with an Employer.

**C.** Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member’s employment information and submit the verified Working After Retirement form to the ASRS through the Employer’s secure website account for each retired member who returns to work with the Employer.

**D.** After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS through the Employer’s secure website account within 30 days of a change in the actual hours or intent of each retired member’s employment that results in:

1. The member’s number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
2. The member’s number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.

- E.** The Working After Retirement form shall contain the following information:
1. The retired member's Social Security number or U.S. Tax Identification number;
  2. The retired member's full name;
  3. The date the member retired;
  4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
  5. The first date of Commencing Employment upon the retired member's return to work;
  6. The intent of the retired member's employment reflected as:
    - a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
    - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
  7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to submit the Working After Retirement form to the Employer and submit any additional Working After Retirement forms to the Employer as required.
- F.** Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- G.** By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting

documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.

- H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- I. If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.
- J. Notwithstanding any other section, a member who meets the required minimum distributions age according to A.R.S. § 38-775, may not elect to suspend the member's retirement benefit.

### **ARTICLE 3. LONG-TERM DISABILITY**

#### **R2-8-304. Payment of Long-Term Disability Benefit**

- A. The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no sooner than six months after the date the disabled member became disabled.
- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.

D. Notwithstanding any other section, a member may receive Long-Term disability benefits for no more than 12 months after the member receives a required minimum distribution of the member's retirement benefit pursuant to A.R.S. § 38-775.

# ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>

## TITLE 2. ADMINISTRATION

### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

#### 1. Identification of the rulemaking:

The ASRS needs to amend its rules relating to benefit distributions in specific situations. The ASRS is required to disburse benefits by a federally mandated Required Minimum Distribution (RMD) date. The ASRS needs to amend its rules in order to clarify how the ASRS shall disburse benefits in compliance with the RMD date in specific situations involving Long-Term Disability (LTD) and Return to Work members. Finally, the ASRS needs to make additional clarifying changes to ensure its rules are consistent regarding RMD requirements. These rules will increase understandability of how the ASRS complies with RMD requirements.

#### a. The conduct and its frequency of occurrence that the rule is designed to change:

In the past fiscal year, the ASRS had one member who met RMD requirements while receiving LTD and approximately 80 retired members who returned to work after meeting RMD requirements. With the changes completed in this rulemaking, the processes for disbursing benefits related to RMD will be clearer and more effective. Ultimately, the rules will clarify how and when a member may receive benefits based on their RMD status.

#### b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

Currently, the ASRS does not foresee significant changes or harm resulting from the conduct the rule is designed to change. However, without this rulemaking, members will not be aware of the restrictions on receiving

---

<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

benefits related to their RMD status. Implementing clear and concise language will ensure members better understand how the ASRS will disburse benefits. This rulemaking will ensure the ASRS is consistent with Arizona statutes.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

Arizona statutes indicate that members may receive both LTD benefits and retirement benefits if they have met RMD requirements. Likewise, retired member who return to work after meeting RMD requirements are not eligible to suspend their pension. This rulemaking simply clarifies such statutory restrictions. Therefore, the ASRS does not anticipate any change in frequency as a result of this rule. As discussed above and below, this rulemaking will increase the clarity of how the ASRS disburses RMD benefits, which will incorporate consistent language and reduce confusion.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies in further detail how the ASRS complies with RMD requirements.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-mail: [JessicaT@azasrs.gov](mailto:JessicaT@azasrs.gov)

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members of the ASRS, as well as their beneficiaries, will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 627,975.

Specifically, members and Employers may be affected based on the various transactions. This rule will provide direction to the public about when a member or Employer may elect to purchase service. Such clarification will benefit members and Employers by increasing the readability of the rules and restrictions on purchasing service.

5. Cost-benefit analysis:

a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

This rulemaking does not directly affect state agencies and the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment.

7. Impact on small businesses<sup>2</sup>:

a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.

b. Administrative and other costs required for compliance with the rulemaking:

Not applicable.

c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS retired members, beneficiaries, and Employers are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:

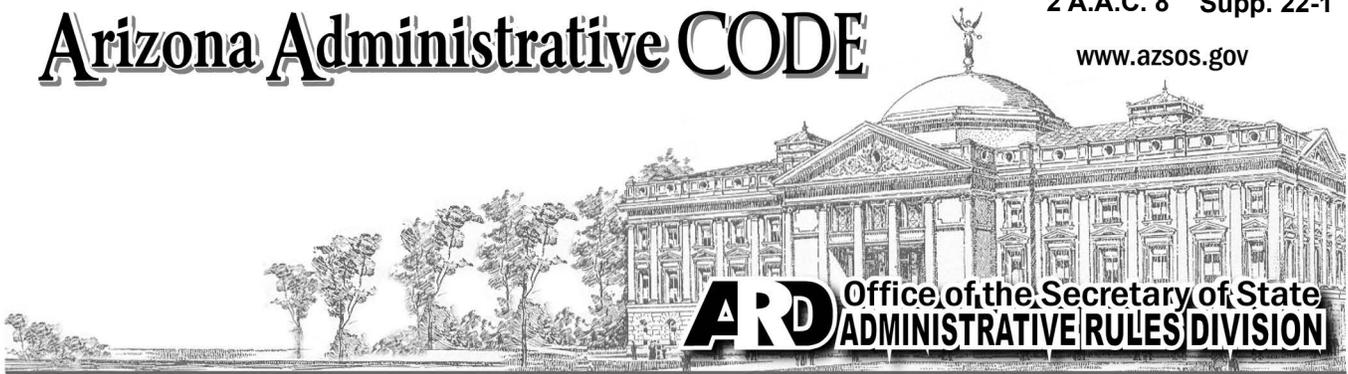
There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

---

<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(20).

The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.



## TITLE 2. ADMINISTRATION

### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

The table of contents on page one contains links to the referenced page numbers in this Chapter.  
 Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1 through March 31, 2022

<a href="#">R2-8-401.</a>	<a href="#">Definitions .....</a>	<a href="#">31</a>	<a href="#">R2-8-403.</a>	<a href="#">Letters of Appeal; Request for a Hearing of an Appealable Agency Action .....</a>	<a href="#">31</a>
---------------------------	-----------------------------------	--------------------	---------------------------	---	--------------------

#### Questions about these rules? Contact:

Board: Arizona State Retirement System  
 Address: 3300 N. Central Ave., Suite 1400  
 Phoenix, AZ 85012-0250  
 Website: <https://www.azasrs.gov>  
 Name: Jessica A.R. Thomas, Rules Writer  
 Telephone: (602) 240-2039  
 E-mail: [Ruleswriter@azasrs.gov](mailto:Ruleswriter@azasrs.gov)

#### The release of this Chapter in Supp. 22-1 replaces Supp. 21-1, 1-53 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

---

### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

### RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, [www.azsos.gov](http://www.azsos.gov) under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### PERSONAL USE/COMMERCIAL USE

This Chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.*

Administrative Rules Division  
 The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TTITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

Authority: A.R.S. § 38-701 et seq.

**Supp. 22-1**

**CHAPTER TABLE OF CONTENTS**

**ARTICLE 1. RETIREMENT SYSTEM**

Section

R2-8-101. Repealed ..... 4

R2-8-102. Repealed ..... 4

R2-8-103. Repealed ..... 4

R2-8-104. Definitions ..... 4

R2-8-105. Repealed ..... 4

R2-8-106. Reserved ..... 4

R2-8-107. Reserved ..... 4

R2-8-108. Reserved ..... 4

R2-8-109. Reserved ..... 4

R2-8-110. Reserved ..... 4

R2-8-111. Reserved ..... 4

R2-8-112. Reserved ..... 4

R2-8-113. Emergency Expired ..... 4

R2-8-114. Emergency Expired ..... 5

R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death 5

R2-8-116. Alternate Contribution Rate ..... 6

R2-8-117. Return to Work After Retirement ..... 7

R2-8-118. Application of Interest Rates ..... 7

R2-8-119. Expired ..... 8

R2-8-120. Repealed ..... 8

R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice ..... 8

R2-8-122. Remittance of Contributions ..... 8

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets ..... 8

Table 1. Expired ..... 9

Table 2. Expired ..... 9

Table 3. Repealed ..... 9

Table 3A. Expired ..... 9

Table 3B. Expired ..... 9

Table 4. Expired ..... 9

Table 4A. Repealed ..... 10

Table 4B. Repealed ..... 10

Table 4C. Repealed ..... 10

Table 5. Expired ..... 10

Table 6. Expired ..... 10

Table 7. Expired ..... 10

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations ..... 10

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations ..... 11

R2-8-126. Retirement Application ..... 12

R2-8-127. Re-Retirement Application ..... 14

R2-8-128. Joint and Survivor Retirement Benefit Options 15

R2-8-129. Period Certain and Life Annuity Retirement Options ..... 15

R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant ..... 15

R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation .....17

R2-8-132. Survivor Benefit Options .....18

R2-8-133. Survivor Benefit Applications .....19

Table 1. Repealed .....21

Table 2. Repealed .....21

Table 3. Repealed .....21

Table 4. Repealed .....22

Table 5. Repealed .....22

Table 6. Repealed .....22

Table 7. Repealed .....22

Table 8. Repealed .....22

Table 9. Repealed .....22

Table 10. Repealed .....22

Table 11. Repealed .....22

Exhibit A. Repealed .....22

Exhibit C. Repealed .....23

Exhibit G. Repealed .....24

Exhibit H. Repealed .....25

Exhibit I. Repealed .....25

Exhibit J. Repealed .....25

Exhibit K. Repealed .....25

**ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**

*Article 2, consisting of R2-8-201 through R2-8-207, made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017; under the authority of A.R.S. § 38-714(E)(4) (Supp. 17-2).*

*Article 2, consisting of R2-8-201 through R2-8-207, made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2).*

Section

R2-8-201. Definitions .....26

R2-8-202. Premium Benefit Eligibility and Benefit Determination .....27

R2-8-203. Payment of Premium Benefit .....27

R2-8-204. Premium Benefit Calculation .....28

R2-8-205. Premium Benefit Documentation .....28

R2-8-206. Six-Month Reimbursement Program .....28

R2-8-207. Optional Premium Benefit .....29

**ARTICLE 3. LONG-TERM DISABILITY**

*Article 3, consisting of R2-8-301 through R2-8-306, made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).*

Section

R2-8-301. Definitions .....30

R2-8-302. Application for Long-Term Disability Benefit ...30

R2-8-303. Long-Term Disability Calculation .....30

R2-8-304. Payment of Long-Term Disability Benefit .....30

R2-8-305. Social Security Disability Appeal .....31

R2-8-306. Approval of Social Security Disability .....31

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**

*Article 4, consisting of R2-8-401 through R2-8-405, made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).*

Section	
R2-8-401.	Definitions ..... 31
R2-8-402.	General Procedures ..... 31
R2-8-403.	Letters of Appeal; Request for a Hearing of an Appealable Agency Action ..... 31
R2-8-404.	Board Decisions on Hearings before the Office of Administrative Hearings ..... 32
R2-8-405.	Motion for Rehearing Before the Board; Motion for Review of a Final Decision ..... 32

**ARTICLE 5. PURCHASING SERVICE CREDIT**

*Article 5, consisting of R2-8-501 through R2-8-521, made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2).*

Section	
R2-8-501.	Definitions ..... 33
R2-8-502.	Request to Purchase Service Credit and Notification of Cost ..... 34
R2-8-503.	Requirements Applicable to All Service Credit Purchases ..... 34
R2-8-504.	Service Credit Calculation for Purchasing Service Credit ..... 35
R2-8-505.	Restrictions on Purchasing Overlapping Service Credit ..... 35
R2-8-506.	Cost Calculation for Purchasing Service Credit ..... 35
R2-8-507.	Required Documentation and Calculations for Forfeited Service Credit ..... 35
R2-8-508.	Required Documentation and Calculations for Leave of Absence Service Credit ..... 35
R2-8-509.	Required Documentation and Calculations for Military Service Credit ..... 36
R2-8-510.	Required Documentation and Calculations for Military Call-up Service Credit ..... 36
R2-8-511.	Required Documentation and Calculations for Other Public Service Credit ..... 37
R2-8-512.	Purchasing Service Credit by Check, Cashier's Check, or Money Order ..... 38
R2-8-513.	Purchasing Service Credit by Irrevocable PDA ..... 38
R2-8-513.01.	Irrevocable PDA and Transfer of Employment to a Different Employer ..... 39
R2-8-513.02.	Termination Date ..... 39
R2-8-514.	Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer ..... 40
R2-8-515.	Repealed ..... 41
R2-8-516.	Expired ..... 41
R2-8-517.	Expired ..... 41
R2-8-518.	Repealed ..... 41
R2-8-519.	Purchasing Service Credit by Termination Pay ..... 41
R2-8-520.	Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA ..... 42
R2-8-521.	Adjustment of Errors ..... 42

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**

*Article 6, consisting of R2-8-601 through R2-8-607, made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1).*

Section	
---------	--

R2-8-601.	Definitions .....42
R2-8-602.	Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements .....42
R2-8-603.	Petition for Rulemaking .....42
R2-8-604.	Review of a Rule, Agency Practice, or Substantive Policy Statement .....42
R2-8-605.	Objection to Rule Based Upon Economic, Small Business and Consumer Impact .....43
R2-8-606.	Oral Proceedings .....43
R2-8-607.	Petition for Delayed Effective Date .....43

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**

*Article 7, consisting of R2-8-701 through R2-8-709, made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).*

Section	
R2-8-701.	Definitions .....43
R2-8-702.	General Information .....44
R2-8-703.	Employer's Discovery of Error .....44
R2-8-704.	Member's Discovery of Error .....44
R2-8-705.	ASRS' Discovery of Error .....45
R2-8-706.	Determination of Contributions Not Withheld .....45
R2-8-707.	Submission of Payment .....45
R2-8-708.	Expired .....45
R2-8-709.	Repealed .....45

**ARTICLE 8. RECOVERY OF OVERPAYMENTS**

*Article 8, consisting of R2-8-801 through R2-8-810, made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).*

Section	
R2-8-801.	Definitions .....45
R2-8-802.	Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount .....46
R2-8-803.	Reimbursement of Overpayments .....46
R2-8-804.	Collection of Overpayments from Forfeiture .....46
R2-8-805.	Collection of Overpayments from Retirement Benefit .....46
R2-8-806.	Collection of Overpayments from Survivor Benefit .....47
R2-8-807.	Collection of Overpayments from LTD Benefit .....47
R2-8-808.	Collection of Overpayments by the Attorney General .....47
R2-8-809.	Collection of Overpayments by the Arizona Department of Revenue .....47
R2-8-810.	Collection of Overpayments by Garnishment or Levy .....47

**ARTICLE 9. COMPENSATION**

*Article 9, consisting of new Sections R2-8-901 through R2-8-904, made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 20-1).*

*Article 9, consisting of R2-8-901 through R2-8-905, made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).*

*Article 9, consisting of R2-8-901 through R2-8-905, expired at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).*

Section	
R2-8-901.	Definitions .....47
R2-8-902.	Remitting Contributions .....47
R2-8-903.	Accrual of Credited Service .....47
R2-8-904.	Compensation from An Additional Employer .....48
R2-8-905.	Expired .....48

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 10. MEMBERSHIP

Article 10, consisting of Sections R2-8-1001 through R2-8-1005, made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

Section

R2-8-1001. Definitions ..... 48

R2-8-1002. Employee Membership ..... 48

R2-8-1003. Charter School Employer Membership ..... 49

R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership ..... 50

R2-8-1005. Employer Reporting .....50

R2-8-1006. Prior Service Purchase Cost for New Employers ...  
.....51

ARTICLE 11. TRANSFER OF SERVICE CREDIT

Section

R2-8-1101. Definitions .....52

R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit .....52

R2-8-1103. Transferring Service to Other Retirement Plans..53

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. RETIREMENT SYSTEM

**R2-8-101. Repealed**

**Historical Note**

Former Rule, Social Security Regulation 1; Former Section R2-8-01 renumbered as Section R2-8-101 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (A) and (C) effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-102. Repealed**

**Historical Note**

Former Rule, Social Security Regulation 2; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-02 renumbered as Section R2-8-102 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A), (B), and (D), amended effective April 12, 1984 (Supp. 84-2). Correction, subsection (B), as amended effective April 12, 1984 (Supp. 84-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-103. Repealed**

**Historical Note**

Former Rule, Social Security Regulation 3; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-03 renumbered as Section R2-8-103 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A) thru (C), amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-104. Definitions**

- A. The definitions in A.R.S. § 38-711 apply to this Chapter.
- B. Unless otherwise specified, in this Chapter:
  - 1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
  - 2. "Assumed actuarial investment earnings rate" means the assumed rate of investment return approved by the Board and contained in R2-8-118(A).
  - 3. "Authorized employer representative" means an individual specified by the Employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
  - 4. "Contribution" means:
    - a. Amounts required by A.R.S. Title 38, Chapter 5, Articles 2 and 2.1 to be paid to the ASRS by a member or an employer on behalf of a member;
    - b. Any voluntary amounts paid to the ASRS pursuant to 2 A.A.C. 8, Article 5 by a member to be placed in the member's account; and
    - c. Amounts credited by transfer under 2 A.A.C. 8, Article 11.
  - 5. "Day" means a calendar day, and excludes the:
    - a. Day of the act or event from which a designated period of time begins to run; and

- b. Last day of the period if a Saturday, Sunday, or official state holiday.
- 6. "Designated beneficiary" means the same as in A.R.S. § 38-762(G) or another person designated as a beneficiary by law.
- 7. "Director" means the Director appointed by the Board as provided in A.R.S. § 38-715.
- 8. "Individual retirement account" or "IRA" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
- 9. "Party" means the same as in A.R.S. § 41-1001(14).
- 10. "Person" means the same as in A.R.S. § 41-1001(15).
- 11. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-712(B), and as administered by the ASRS.
- 12. "Retirement account" means the same as in A.R.S. § 38-771(J)(2).
- 13. "Rollover" means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
- 14. "Terminate employment" means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
- 15. "United States" means the same as in A.R.S. § 1-215(39).

**Historical Note**

Former Rule, Social Security Regulation 4; Former Section R2-8-04 renumbered as Section R2-8-104 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (G), (J), and (K) effective April 12, 1984 (Supp. 84-2). Typographical error corrected in subsection (5)(c) "required" corrected to "required" (Supp. 97-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-105. Repealed**

**Historical Note**

Former Rule, Social Security Regulation 5; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-05 renumbered as Section R2-8-105 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-106. Reserved**

**R2-8-107. Reserved**

**R2-8-108. Reserved**

**R2-8-109. Reserved**

**R2-8-110. Reserved**

**R2-8-111. Reserved**

**R2-8-112. Reserved**

**R2-8-113. Emergency Expired**

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

**R2-8-114. Emergency Expired****Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

**R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death**

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

1. "DRO" means the same as "domestic relations order" in A.R.S. § 38-773(H)(1).
2. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
3. "Employer Number" means a unique identifier the ASRS assigns to a member employer.
4. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
5. "LTD" Means the same as in R2-8-301.
6. "On File" means ASRS has received the information.
7. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
8. "Warrant" means a voucher authorizing payment of funds due to a member.

B. A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents necessary to apply for the withdrawal of the member's contributions.

C. Upon request to withdraw by the member, the ASRS shall provide:

1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer, if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS.

D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:

1. The member's full name;
2. The member's Social Security number or U.S. Tax Identification number;
3. The member's current mailing address, if not On File with ASRS;
4. The member's birth date, if not On File with ASRS;
5. Notarized signature of the member certifying that the member:
  - a. Is no longer employed by any Employer;
  - b. Is neither under contract nor has any verbal or written agreement for future employment with an Employer;
  - c. Is not currently in a leave of absence status with an Employer;

d. Understands that each of the member's former Employers will complete an ending payroll verification form if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS;

e. Understands that the member's most recent Employer will complete an ending payroll verification form for the member if the member has reached the member's required beginning date pursuant to A.R.S. § 38-775;

f. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application and the member elects to waive the member's 30-day waiting period to consider a roll over or a cash distribution;

g. Understands that the member is forfeiting all future retirement rights and privileges of membership with ASRS;

h. Understands that LTD benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;

i. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;

j. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and

k. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for roll over will be paid directly to the member and any taxable amounts will be subject to applicable state and federal tax withholding;

l. Understands that the member is not considered terminated and cannot withdraw the member's ASRS contribution if the member was called to active military service and is not currently performing services for an Employer;

m. Understands that any person who knowingly makes any false statement with an intent to defraud the ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793.

6. Specify that:

a. The entire amount of the distribution be paid directly to the member,

b. The entire amount of the distribution be rolled over to an eligible retirement plan, or

c. An identified amount of the distribution be rolled over to an eligible retirement plan and the remaining amount be paid directly to the member; and

7. If the member selects all or a portion of the withdrawal be rolled over to an eligible retirement plan, specify;

a. The type of eligible retirement plan; and

b. The name and mailing address of the eligible retirement plan.

E. If ASRS has received contributions for the member within six months immediately preceding the date the member submitted

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

the request to ASRS each Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:

1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The member's termination date;
  4. The member's final pay period ending date;
  5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
  6. The Employer's name and telephone number;
  7. The Employer Number;
  8. The name and title of the authorized Employer representative;
  9. Certification by the authorized Employer representative that:
    - a. The member Terminated Employment and is neither under contract nor bound by any verbal or written agreement for employment with the Employer;
    - b. There is no agreement to re-employ the member;
    - c. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
    - d. The authorized Employer representative certifies that they are the Employer user named on the Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form and their title and contact information is current and correct.
- F.** If the member has attained a required beginning distribution date as of the date the member submitted the request to ASRS, the most recent Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the information contained in subsection (E).
- G.** If the member requests a return of contributions and a Warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H.** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the Warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I.** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless a present or former spouse submits to the ASRS a certified copy or original DRO that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- J.** A member may cancel an Application for Withdrawal of Contributions and Termination of Membership form at any time

before the return of contributions is disbursed by submitting written notice to ASRS to cancel the request.

- K.** If an Application for Withdrawal of Contributions and Termination of Membership form is completed through the member's secure ASRS account, the secure login and successful submission of the knowledge based answers shall serve as the member's notarized signature required under subsection (D)(5).

**Historical Note**

Former Rule, Social Security Regulation 1; Amended effective Dec. 20, 1979 (Supp. 79-6). Former Section R2-8-15 renumbered as Section R2-8-115 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 644, effective February 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-116. Alternate Contribution Rate**

- A.** For purposes of this Section, the following definitions apply:
1. "ACR" means an alternate contribution rate pursuant to A.R.S. § 38-766.02, the resulting amount of which is not deducted from the employee's compensation.
  2. "Class of positions" means all employment positions of the employer that perform the same, or substantially similar, function or duties, for the employer as determined by the ASRS in subsection (B).
  3. "Compensation" has the same meaning as A.R.S. § 38-711(7) and does not include ACR amounts.
  4. "Leased from a third party" means:
    - a. The employee is not employed by an employer; and
    - b. A co-employment relationship, as defined in A.R.S. § 23-561(4), does not exist.
- B.** An employer that employs a retired member shall pay an ACR to the ASRS, unless the employer provides proof that:
1. The retired member is leased from a third party; and
  2. All employees in the entire class of positions, to which the retired member's position belongs, have been leased from a third party; and
  3. No employee who has not been leased is performing the same, or substantially similar, function or duties, as the retired member.
- C.** In order to determine whether an employer satisfies the criteria in subsection (B), the employer shall submit information and documentation, pursuant to A.R.S. § 38-766.02(E), within 14 days of written request by the ASRS.
- D.** The employer shall directly remit payment of an ACR to the ASRS from the employer's funds, through the employer's secure ASRS account within 14 days of the first pay period end date after the hire of the retired member.
- E.** If the employer does not remit the ACR by the date it is due pursuant to subsection (D), the ASRS shall charge interest on the ACR amount from the date it was due to the date the ACR payment is remitted to the ASRS at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- F.** A payment of an ACR on behalf of a retired member pursuant to A.R.S. § 38-766.02, shall not entitle a retired member to a refund of an ACR payment or any additional ASRS benefit as described in A.R.S. § 38-766.01(E).

**Historical Note**

Former Rule, Retirement System Regulation 2; Former Section R2-8-16 renumbered as Section R2-8-116 with-

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

out change effective May 21, 1982 (Supp. 82-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 22 A.A.R. 1341, effective July 4, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

**R2-8-117. Return to Work After Retirement**

- A. Unless otherwise specified, in this Section:
  - 1. "Commencing employment" means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders services directly to an Employer for which the retired member is entitled to be paid.
  - 2. "Returns to work" means the member retired from the ASRS prior to Commencing Employment with an Employer.
- B. Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member's current Employers through the retired member's secure website account within 30 days of the retired member Commencing Employment with an Employer.
- C. Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member's employment information and submit the verified Working After Retirement form to the ASRS through the Employer's secure website account for each retired member who returns to work with the Employer.
- D. After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS through the Employer's secure website account within 30 days of a change in the actual hours or intent of each retired member's employment that results in:
  - 1. The member's number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
  - 2. The member's number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.
- E. The Working After Retirement form shall contain the following information:
  - 1. The retired member's Social Security number or U.S. Tax Identification number;
  - 2. The retired member's full name;
  - 3. The date the member retired;
  - 4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
  - 5. The first date of Commencing Employment upon the retired member's return to work;
  - 6. The intent of the retired member's employment reflected as:
    - a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
    - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
  - 7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to submit the Working After Retirement form to the Employer and submit any additional Working After Retirement forms to the Employer as required.

- F. Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- G. By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.
- H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- I. If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.

**Historical Note**

Former Rule, Retirement System Regulation 3; Former Section R2-8-17 renumbered as Section R2-8-117 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). New Section made by final rulemaking at 23 A.A.R. 209, effective March 5, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-118. Application of Interest Rates**

- A. Application of interest from inception of the ASRS Plan through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Investment Earnings Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death
7-1-1953	2.50%	2.50%
7-1-1959	3.00%	3.00%
7-1-1966	3.75%	3.75%
7-1-1969	4.25%	4.25%
7-1-1971	4.75%	4.75%
7-1-1975	5.50%	5.50%
7-1-1976	6.00%	5.50%
7-1-1981	7.00%	5.50%
7-1-1982	7.00%	7.00%
7-1-1984	8.00%	8.00%
7-1-2005	8.00%	4.00%
7-1-2013	8.00%	2.00%
7-1-2018	7.50%	2.00%

- B. At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The balance on which interest is credited includes:
  - 1. Employer and employee contributions;
  - 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

3. Amounts credited by transfer under 2 A.A.C. 8, Article 11; and
  4. Interest credited in previous years.
- C. Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the member's retirement date.

**Historical Note**

Former Rule, Retirement System Regulation 4; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-18 renumbered and amended as Section R2-8-118 effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-119. Expired****Historical Note**

Former Rule, Retirement System Regulation 5; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-19 renumbered and amended as Section R2-8-119 effective May 21, 1982 (Supp. 82-3). Section R2-8-119 and Appendix A and B expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**R2-8-120. Repealed****Historical Note**

Former Rule, Social Security Regulation 6; Amended effective June 19, 1975 (Supp. 75-1). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-20 renumbered and amended as Section R2-8-120 effective May 21, 1982 (Supp. 82-3). Repealed effective July 24, 1985 (Supp. 85-4). New Section made by final rulemaking at 20 A.A.R. 2236, effective October 4, 2014 (Supp. 14-3). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Repealed by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice**

- A. Upon calculating an unfunded liability amount under A.R.S. § 38-748, the ASRS shall send an Unfunded Liability Invoice to the Employer through the Employer's secure ASRS account.
- B. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-748, shall remit full payment of the unfunded liability amount within 90 days of being notified of the unfunded liability pursuant to subsection (A).
- C. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount within 90 days of being notified of the unfunded liability amount, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- D. The ASRS may collect any unfunded liability and interest amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

**Historical Note**

Former Rule, Retirement System Regulation 7; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-21 renumbered as Section R2-8-121 without change effective May 21, 1982 (Supp. 82-3). Amended subsection (A) effective May 30, 1985 (Supp. 85-3). Section repealed by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (05-1). New Section made by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

**R2-8-122. Remittance of Contributions**

- A. Each Employer shall remit the amount of employee member contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- B. Each Employer shall remit the amount of employer contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- C. Each Employer shall remit contributions pursuant to this Section based on the contribution rate in effect on the pay period end date.
- D. Each Employer shall certify on each payroll that each employee included on that payroll has met the requirements for active member eligibility and that all contributions to be remitted are for eligible compensation under A.R.S. § 38-711.
- E. If an Employer improperly certifies that an employee has met the requirements for active member eligibility and that all contributions remitted for the employee are eligible for compensation under subsection (D), the ASRS may charge the employer an unfunded liability amount under A.R.S. § 38-748.

**Historical Note**

Former Rule, Retirement System Regulation 8; Amended effective Dec. 8, 1978 (Supp. 78-6). Former Section R2-8-22 renumbered as Section R2-8-122 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 371, effective April 11, 2020 (Supp. 20-1). Section amended by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

**R2-8-123. Actuarial Assumptions and Actuarial Value of Assets**

- A. For the purposes of this Section, "market value" means an estimated monetary worth of an asset based on the current demand for the asset and the amount of that type of asset available for sale.
- B. The Board adopts the following actuarial assumptions and asset valuation method:
  1. The interest and investment return rate assumptions are determined by the Board.
  2. The actuarial value of assets equals the market value of assets:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. Minus a 10-year phase-in of the excess for years in which actual investment return exceeds expected investment return; and
- b. Plus a 10-year phase-in of the shortfall for years in which actual investment return falls short of expected investment return.

**Historical Note**

Adopted effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Amended effective December 20, 1977 (Supp. 77-6). Former Section R2-8-23 renumbered and amended as Section R2-8-123 effective May 21, 1982 (Supp. 82-3). Emergency amendments effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent amendments adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1006, effective February 24, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking renewed at 9 A.A.R. 3963, effective August 21, 2003 for a period of 180 days (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 20 A.A.R. 3043, effective January 3, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

**Table 1. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 1 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 2. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amend-

ments to Table 2 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 3. Repealed****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 3 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Table 3 repealed; new Table 3 renumbered from Table 4 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 3A. Expired****Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 3B. Expired****Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 4. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 4 renumbered as Table 3 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 4A. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 4B. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 4C. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 5. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 5 repealed, new Table 5 adopted by emergency action effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Table 5 repealed, new Table 5 adopted by regular rulemaking action effective September 12, 1997 (Supp. 97-3). Table 5 repealed; new Table 5 renumbered from Table 6 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 5 renumbered to Table 6; new Table 5 made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 6. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Former Table 6 renumbered to Table 5; new Table 6 renumbered from Table 7 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp.

03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 6 renumbered to Table 7; new Table 6 renumbered from Table 5 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 7. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Renumbered to Table 6 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table 7 renumbered from Table 6 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations**

- A. The following definitions apply to this Section unless otherwise specified:
1. "Compensation" means the same as in A.R.S. § 38-711(7).
  2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).
- B. An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and
  2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:
    - a. The member's full name;
    - b. The member's date of birth; and
    - c. The member's current Compensation;
- C. The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.
- D. If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- E. Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. The member's full name;
  2. The member's date of birth;
  3. The member's Compensation at termination;
  4. The date the member terminated employment; and
  5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.
- F. Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.
- G. If the ASRS calculates an unfunded liability of less than \$0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.
- H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.
- I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).
- Historical Note**
- Adopted as an emergency effective August 25, 1975 (Supp. 75-1). Former Section R2-8-24 renumbered as Section R2-8-124 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).
- R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations**
- A. The following definitions apply to this Section unless otherwise specified:
1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).
  2. "Baseline salary" means a member's Average Monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:
- a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and
  - b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).
3. "Compensation" means the same as in A.R.S. § 38-711(7).
  4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.
  5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:
    - a. A change in the employee's primary job responsibilities; and
    - b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and
    - c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.
  6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.
  7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this Section, each agency, board, commission, and department of the State of Arizona shall be considered a separate Employer.
  8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).
- B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation for each consecutive 12 months of Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.
- C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.
- D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:
1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.
- E.** Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).
- F.** The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.
- G.** If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.
- H.** If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).
- I.** In consultation with the ASRS actuary, the ASRS shall use a determination under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.
- J.** Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).
- K.** An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- L.** Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- M.** The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).
6. "Joint and survivor retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
7. "Legal documentation" means:
- One document issued from a United States government entity; or
  - Two documents issued from one or more federal, state, local, sovereign, medical, or religious institution.
8. "LTD" means the same as in R2-8-301.
9. "Irrevocable PDA" means the same as in R2-8-501.
10. "On File" means the same as in R2-8-115.
11. "Original retirement date" means the later of:
- The date a member retires from the ASRS for the first time; or
  - The date a member re-retires from the ASRS after returning to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C).
11. "Period certain and life annuity retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).
12. "Spouse" means the individual to whom a member is married under Arizona law.
13. "Straight life annuity" means the same as monthly life annuity according to A.R.S. § 38-757.
- B.** A member may retire from the ASRS by submitting a Retirement Application to the ASRS that contains the following information:
- The member's full name;
  - The member's Social Security number or U.S. Tax Identification number;
  - The member's marital status, if not On File with ASRS;
  - The member's current mailing address; if not On File with ASRS;
  - The member's date of birth, if not On File with ASRS;
  - A retirement date according to A.R.S. § 38-764(A);
  - The retirement option the member is electing;
  - If the member is electing to roll over a lump sum distribution amount to another retirement account, then:
    - The type of account and account number, if applicable, to which the member is electing to roll over the lump sum distribution; and
    - The name and address of the financial institution of the account to which the member is electing to roll over the lump sum distribution;
  - The following information for each primary beneficiary, unless the member is receiving a mandatory lump sum distribution under subsection (M):
    - The beneficiary's full name;
    - The beneficiary's Social Security number, if the beneficiary is a U.S. citizen;
    - The beneficiary's date of birth;
    - The beneficiary's relationship to the member; and
    - The percent of benefit the beneficiary may receive upon death of the member, if the member is designating more than one beneficiary.
  - Whether the member is electing the Optional Health Insurance Premium Benefit;
  - The following spousal consent information, if the member is married and is electing a retirement option other than a Joint and Survivor Retirement Benefit Option with at least 50% of the retirement benefit designated to the member's spouse:
    - Whether the member's spouse consents to the member making a beneficiary election that provides the

**Historical Note**

Adopted as an emergency effective July 30, 1975 (Supp. 75-1). Former Section R2-8-25 renumbered as Section R2-8-125 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

**R2-8-126. Retirement Application**

- A.** For the purposes of this Section, the following definitions apply, unless stated otherwise:
- "Acceptable documentation" means any written request containing all the accurate, required information, dates, and signatures necessary to process the request.
  - "Acceptable form" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
  - "Applicable retirement date" means the later of:
    - The date a member retires from the ASRS for the first time; or
    - The date a member re-retires from the ASRS after returning to active membership.
  - "Conservator" means the same as in A.R.S. § 14-7651.
  - "DRO" means the same as in R2-8-115.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- member's spouse with less than 50% of the member's account balance;
- b. Whether the member's spouse consents to the member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
  - c. The member's spouse's full name; and
  - d. The member's spouse's notarized signature;
12. Whether the member is electing to receive a partial lump sum distribution according to A.R.S. § 38-760 and if so:
    - a. How many months of annuity, up to 36 months, the member is electing to receive as a partial lump sum;
    - b. Whether the member is electing to directly receive the partial lump sum distribution reduced by applicable tax withholding amounts;
    - c. Whether the member is electing to roll over all or a portion of the partial lump sum distribution amount to one other retirement account; and
    - d. Whether the member is electing to use the partial lump sum distribution to purchase service credit with ASRS based on a service purchase request dated before January 6, 2013;
  13. Acknowledgement of the following statements of understanding:
    - a. The member is aware of the member's LTD stop-payment date and any disability benefits the member is receiving shall cease upon the retirement date the member elects according to subsection (B)(6);
    - b. The member understands that if an overpayment exists, ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with ASRS LTD claims administrator shall cease;
    - c. The member understands that if the member is submitting written notice of a changed retirement date, benefit option, or partial lump sum increment selection, ASRS shall distribute the member's benefit as of the later of:
      - i. The date ASRS receives the most recent Acceptable Documentation; or
      - ii. The retirement date contained in the most recent Acceptable Documentation.
    - d. The member has received the Special Tax Notice Regarding Plan Payments;
    - e. The member has received the Return to Work information and will comply with the laws and rules governing the member's return to work;
    - f. The member authorizes ASRS and the banking institution identified in subsection (W) to debit the member's account for the purposes of correcting errors and returning any payments inadvertently made after the member's death;
    - g. The member understands that the member may have a one-time option to rescind a Joint and Survivor Retirement Benefit Option or a Period Certain and Life Annuity Retirement Benefit Option according to R2-8-130;
    - h. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
    - i. The member acknowledges that the member has complied with A.R.S. §§ 38-755 and 38-776 regarding spousal consent; and
  14. The member's notarized signature.
- E. If a Retirement Application is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(14).
  - D. If the retirement date the member elects according to subsection (B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.
  - E. A member who elects to roll over all or a portion of the partial lump sum distribution amount according to subsection (B)(12)(c), shall submit the following written information to the ASRS:
    1. The type of account and account number to which the member is electing to roll over;
    2. The name and address of the financial institution of the account to which the member is electing to roll over; and
    3. If the member is electing to roll over a portion of the partial lump sum distribution, then the amount the member is electing to roll over.
  - F. If the member elects to roll over all or a portion of their lump sum or partial lump sum distribution, the ASRS shall only roll over the distribution to one retirement account.
  - G. Any portion of the partial lump sum distribution that is not rolled over to another retirement account according to subsection (B) shall be distributed directly to the member.
  - H. If the member elects to use the partial lump sum distribution to purchase service credit according to subsection (B)(12)(d) the member shall submit the following written information to the ASRS:
    1. The number of the service purchase invoice;
    2. Whether the member is electing to apply the partial lump sum distribution to all eligible service on that invoice;
    3. If the member is not electing to apply the partial lump sum distribution to all eligible service on that invoice, then:
      - a. The amount of the partial lump sum distribution to be applied to that invoice; or
      - b. The number of years on that invoice the member is electing to purchase with the partial lump sum distribution;
    4. If the member is electing to make a payment on that service purchase invoice with after-tax payments, a rollover, or termination pay according to A.R.S. § 38-747;
    5. Whether the member is electing to authorize the ASRS to increase the number of months of annuity, not to exceed 36 months, to purchase the eligible service on that service purchase invoice, if the member elected an insufficient number of months of annuity to receive as a partial lump sum according to subsection (G) to complete the service purchase invoice;
    6. If the member does not have eligible service to purchase on that invoice, whether the member is electing to cancel the member's election to receive a partial lump sum distribution.
  - I. A member who elects to receive a partial lump sum distribution shall receive an actuarially reduced annuity retirement benefit according to A.R.S. § 38-760.
  - J. ASRS shall disburse any partial lump sum amount that is not applied to a service purchase invoice according to subsection (G) directly to the member after withholding applicable taxes.
  - K. After submitting a Retirement Application according to subsection (B), a member may make changes to the member's Retirement Application by submitting written notice to the ASRS of the specific changes according to A.R.S. § 38-764(H).
  - L. If ASRS has received contributions for the member within the three years immediately preceding the member's retirement

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

date, the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer. If ASRS has received contributions for the member within the six months immediately preceding the member's retirement date and the member shall receive a one-time lump sum payment according to subsection (P), the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer.

- M.** If the member has reached the age for minimum required distribution according to A.R.S. § 38-775(H)(4), the ASRS shall send a New Retirement Ending Payroll Verification form to the member's most recent Employer.
- N.** The Employer shall submit the completed New Retirement Ending Payroll Verification form to ASRS with the following information:
1. The member's Termination date or last day of ASRS membership with that Employer, if applicable;
  2. The member's total salary paid during their last fiscal year;
  3. The member's compensation for the last pay period;
  4. The name and title of the authorized Employer representative;
  5. Certification by the authorized Employer representative that:
    - a. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
    - b. The authorized Employer representative certifies that they are the Employer user named on the New Retirement Ending Payroll Verification form and their title and contact information is current and correct.
- O.** The ASRS shall cancel a member's Retirement Application if ASRS does not receive all forms and information required under this Section within six months immediately after the member's retirement date.
- P.** As authorized under A.R.S. § 38-764(F), if a member's Straight Life Annuity, after any applicable early retirement reduction factor, is less than a monthly amount of \$100, the ASRS shall not pay the annuity. Instead, the ASRS shall make a one-time mandatory lump sum payment in the amount determined by using appropriate actuarial assumptions.
- Q.** For purposes of calculating a member's retirement benefit according to A.R.S. §§ 38-758 and 38-759, ASRS shall calculate age to the nearest day as of the member's retirement date.
- R.** Based on the retirement option the member elects according to A.R.S. § 38-760, the ASRS shall calculate a member's actuarially reduced benefits, based on the attained age of the member, and if necessary, the attained age of the contingent annuitant as of the date of the member's retirement as follows:
1. For a partial lump sum retirement benefit option, ASRS shall calculate age to the nearest day as of the member's retirement date;
  2. For a Joint and Survivor Retirement Benefit Option, ASRS shall calculate age to the nearest day as of the member's retirement date; and
  3. For a mandatory lump sum payment according to subsection (O) or a Period Certain and Life Annuity Retirement Benefit Option, ASRS shall calculate age to the nearest full month in addition to calculating age according to subsection (P) as necessary.
- S.** If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- T.** If a member does not retire by the date minimum distribution payments are required according to A.R.S. §§ 38-759 and 38-775, the required minimum distribution payments will accrue interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) and in effect on the date the required minimum distribution payments should have begun.
- U.** The ASRS shall distribute any required minimum distribution payments with interest according to subsection (T) with the member's first finalized benefits payment.
- V.** If a member submits a retirement application after the member's minimum required distribution date, the ASRS shall determine that the member's Applicable Retirement Date is the date the required minimum distribution payments should have begun.
- W.** Notwithstanding any other Section, an inactive member who does not have contributions related to compensation is not eligible for retirement.
- X.** The ASRS shall issue a debit benefit card, if the annuitant does not provide the following direct deposit information through the annuitant's secure ASRS account or by a notarized Direct Deposit form:
  1. The member's full name;
  2. The member's bank account routing number;
  3. The member's bank account number; and
  4. The type of the account.
- Y.** The ASRS shall disburse benefits payments according to subsection (R), only retroactive to the later date specified in A.R.S. § 38-759(B).
- Z.** ASRS shall not issue additional estimate checks to a member whose retirement is canceled.

**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-26 renumbered and amended as Section R2-8-126 effective May 21, 1982 (Supp. 82-3). Amended subsections (A) through (D) effective October 18, 1984 (Supp. 84-5). Amended subsections (A) through (D) effective July 24, 1985 (Supp. 85-4). Amended by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 19 A.A.R. 332, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 22 A.A.R. 3081, effective December 3, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-127. Re-Retirement Application**

- A.** The definitions in R2-8-126 apply to this Section.
- B.** If a member has previously retired from ASRS, the member may re-retire from ASRS by submitting a Re-Retirement Application to the ASRS that contains:
  1. The information identified in R2-8-126(B)(1) through (B)(8);

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The retirement option the member is electing, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  3. The information identified in R2-8-126(B)(11);
  4. Whether the member is electing the Optional Health Insurance Premium Benefit, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  5. The information identified in R2-8-126(B)(13), if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  6. Acknowledgement of the following statements of understanding:
    - a. The member's signature confirms the member's intent to re-retire and applies to all the sections included in the Re-Retirement Application.
    - b. The member understands that as a re-retiree, the member must keep the same retirement option and beneficiary the member elected when the member previously retired from ASRS, unless the member returned to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C);
    - c. The member may change the member's beneficiary after re-retiring and changing the beneficiary may change the member's monthly annuity;
    - d. The member has complied with A.R.S. §§ 38-755 and 38-766 regarding spousal consent;
    - e. The member certifies that the member has read and understands the instructions and Special Tax Notice Regarding Plan Payments;
    - f. The member authorizes ASRS and the banking institution the member listed for direct deposit to debit the member's account for the purpose of correcting errors and returning any payments inadvertently paid after the member's death;
    - g. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
    - h. The member understands that if an overpayment exists, the ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with the ASRS LTD claims administrator shall cease.
  7. The member's notarized signature.
- C. If the retirement date the member elects according to R2-8-126(B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-128. Joint and Survivor Retirement Benefit Options**

- A. The definitions in R2-8-126 apply to this Section.
- B. A member who is ten years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 100% Joint and Survivor Retirement Benefit Option.
- C. A member who is 24 years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible

to elect a 66 2/3% Joint and Survivor Retirement Benefit Option.

- D. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (B), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% Joint and Survivor Retirement Benefit Option, if:
  1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  2. The member submits an original or certified copy of a DRO to ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- E. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (C), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% Joint and Survivor Retirement Benefit Option, if:
  1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  2. The member submits an original or certified copy of a DRO to the ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- F. Notwithstanding any other Section, for purposes of determining whether a member is eligible to participate in a Joint and Survivor Retirement Benefit Option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant. For purposes of this Section, a contingent annuitant must be a living person.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-129. Period Certain and Life Annuity Retirement Options**

- A. The definitions in R2-8-126 apply to this Section.
- B. An individual who is 104 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option.
- C. An individual who is 93 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with ten years certain or 15 years certain.
- D. An individual who is 85 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with 15 years certain.
- E. The ASRS shall calculate the period certain term as beginning on the first day of the first full calendar month following the member's Applicable Retirement Date.
- F. Notwithstanding subsection (E), the ASRS shall calculate the period certain term as beginning on the member's Applicable Retirement Date if the member's Applicable Retirement Date is the first day of the month.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant**

- A. The definitions in R2-8-126 apply to this Section.
- B. According to A.R.S. § 38-760(B)(2), for a member whose Original Retirement Date is after August 9, 2001, upon the expiration of a member's period certain term the ASRS shall rescind the member's election and the ASRS shall provide the member a Straight Life Annuity retirement benefit subject to

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- any retirement reductions applicable at the member's Original Retirement Date.
- C.** According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is after August 9, 2001 and before July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term.
- D.** According to A.R.S. § 38-760(B)(1), a member whose Original Retirement Date is before July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the member's death.
- E.** A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term if the member provides proof to ASRS of the death of the primary beneficiary or an original or certified copy of a DRO showing that the primary beneficiary has ceased to be a primary beneficiary.
- F.** A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the death of the member if the member provides proof to ASRS of the death of the contingent annuitant or an original or certified copy of a DRO showing that the contingent annuitant has ceased to be a contingent annuitant.
- G.** A member who elected to rescind a Period Certain and Life Annuity Retirement Benefit Option according to subsection (C) may elect to revert to the Period Certain and Life Annuity Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- H.** A member who elected to rescind a Joint and Survivor Retirement Benefit Option according to subsection (D) may elect to revert to the Joint and Survivor Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- I.** A member may only revert to the same Period Certain and Life Annuity Retirement Benefit Option the member rescinded according to subsection (C) prior to the expiration of the period certain term the member elected at the member's most recent retirement.
- J.** A member who rescinds their election according to subsections (E) or (F) is not eligible to revert to a Period Certain and Life Annuity Retirement Benefit Option or a Joint and Survivor Retirement Benefit Option.
- K.** Notwithstanding any other provision, the time period of a Period Certain and Life Annuity Retirement Benefit Option shall be continuous from the member's retirement date until the term expires regardless of whether the member rescinds or reverts to another retirement option.
- L.** A member who wants to rescind or revert a retirement election according to subsections (C) through (H) shall ensure ASRS receives an Application to Rescind, Revert or Change Contingent Annuitant at least one day prior to the member's death.
- M.** In order to rescind, revert, or change a contingent annuitant, the member shall submit an Application to Rescind, Revert or Change Contingent Annuitant with the following information:
1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The member's marital status, if not On File with ASRS;
4. Whether the member is electing to rescind, revert, or change a contingent annuitant;
  5. The member's notarized signature acknowledging the following statements of understanding:
    - a. For rescinding a retirement election:
      - i. By this action, and the member's signature, the member is aware that the member's designated beneficiary or contingent annuitant will not continue with monthly benefits after the member's death;
      - ii. The member is aware that a certified copy of the member's designated beneficiary's or contingent annuitant's death certificate or an original or certified copy of a DRO is required if the member retired or re-retired on or after July 1, 2008;
      - iii. At the time of the member's death, if the ASRS has not disbursed the total employee contributions on the member's account, plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, the balance will be payable in a lump sum to the beneficiary named on the member's most recent Acceptable Form.
    - b. For changing a contingent annuitant or beneficiary:
      - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named on the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
      - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of the contingent annuitant's Legal Documentation is required and the member's benefit will be recalculated based on the member's age and the age of the member's new contingent annuitant as of the effective date of the member's request according to this Section;
      - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
      - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
    - c. For reverting to a previously elected retirement benefit option according to A.R.S. § 38-760:
      - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
      - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of Legal Documentation showing the contingent annuitant's date of birth is required and the member's benefit will be recalculated based on the member's age and the age of the member's

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- contingent annuitant as of the effective date of the member's request according to this Section;
- iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
  - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
- 6. If the member is electing to change a contingent annuitant, the following information for the new contingent annuitant:
    - a. Full name;
    - b. Social Security number, if the contingent annuitant is a U.S. citizen;
    - c. Date of birth; and
    - d. Legal relationship to the member.
  - 7. If the member is married, whether the member's spouse consents to the following with the spouse's notarized signature:
    - a. The member making a beneficiary designation that provides the member's spouse with less than 50% of the member's account balance;
    - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option; or
    - c. The member changing or ending the spouse's contingent annuitant status.
  - 8. Whether the spouse's consent is not required because:
    - a. The spouse predeceased the member and if so, provide a copy of the spouse's death certificate; or
    - b. The member is divorced and if so, provide an original or certified copy of a DRO.
  - N. If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
  - O. The effective date of the member's request according to this Section is the date on which ASRS receives the Application to Rescind, Revert or Change Contingent Annuitant.
  - P. According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is on or after July 1, 2008 and who elects a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election according to subsection (E) and elect to receive a Straight Life Annuity prior to the expiration of the member's period certain term if one or more of the member's primary beneficiaries dies or ceases to be a beneficiary according to the terms of an original or certified copy of a DRO.
  - Q. The ASRS shall cancel a member's Application to Rescind, Revert, or Change Contingent Annuitant if ASRS does not receive all forms and information required under this Section within six months immediately after the ASRS receives the application.
- Historical Note**
- New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
- R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation**
- A. The definitions in R2-8-126 apply to this Section.
  - B. In order to designate a beneficiary, a member shall submit an Acceptable Form containing the following information:
    - 1. The Member's full name and one or more of the following information:
      - a. The Member's Social Security number or U.S. Tax Identification number; or
      - b. The Member's address; or
      - c. The Member's date of birth;
    - 2. The following information for the beneficiary:
      - a. The full name of the person or entity the member is designating as beneficiary;
      - b. Whether the beneficiary is being designated as primary or secondary beneficiary;
      - c. The percentage of the benefit the member is allocating to the beneficiary; and
    - 3. The member's notarized signature.
  - C. If a change in a designated beneficiary is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(3).
  - D. If a member submits an Acceptable Form designating a beneficiary without indicating the percentage of the benefit the member is allocating to the beneficiary, the ASRS shall determine that each beneficiary is designated to receive an equal amount of the benefit.
  - E. Effective July 1, 2013, a married member:
    - 1. Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50% of the member's retirement account unless:
      - a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
      - b. The spouse consents to an alternate beneficiary;
    - 2. Who retires shall choose a Joint and Survivor Retirement Benefit Option and name the member's current spouse as contingent annuitant unless:
      - a. Naming or maintaining the current spouse as contingent annuitant violates another law, existing contract, or court order; or
      - b. The spouse consents to an alternate contingent annuitant; or
      - c. The spouse consents to an alternate annuity option under A.R.S. §§ 38-757 or 38-760.
  - F. The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (E).
  - G. Subsection (E) does not apply to a member who is receiving a mandatory lump sum distribution according to A.R.S. § 38-764.
  - H. Subsection (E) does not apply to a member who submits a Spousal Consent Exception form that contains the member's notarized signature to the ASRS affirming under penalty of perjury that the member's spouse's consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).
  - I. In order to change a beneficiary designation, a member shall submit the information contained in subsection (B) and:
    - 1. A married member who changes a beneficiary designation on or after July 1, 2013, shall ensure the new beneficiary designation is consistent with subsection (E); or
    - 2. A married member who retired before July 1, 2013, and who wishes to change the contingent annuitant or beneficiary, shall ensure that the new designation is consistent with subsection (E).
  - J. A married member who re-retires according to A.R.S. § 38-766:
    - 1. Within less than 60 consecutive months of active membership from the member's previous retirement date, is not eligible to elect a different annuity option or different beneficiary than the member elected at the time of the previous retirement; or

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. At least 60 consecutive months of active membership after the member's previous retirement date, may elect a different annuity option and different beneficiary than the member elected at the time of the previous retirement, and the election shall comply with subsection (E).
- K.** If a married member submits a retirement application that fails to comply with subsection (E), the member shall submit a new retirement application or written notice of new retirement elections that comply with subsection (E) within six months of the member's Original Retirement Date. The member's new Original Retirement Date is the date ASRS receives the new application or written notice unless the member elects a later date according to A.R.S. § 38-764.
- L.** If a married member made a beneficiary designation on or after July 1, 2013 that is not consistent with the requirements specified in subsection (E), the ASRS shall, at the time of the member's death:
1. Notify both the spouse and designated beneficiary and:
    - a. Provide the spouse with an opportunity to waive the right under subsection (E); and
    - b. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (E); and
  2. Designate 50% of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond to notification according to subsection (L)(1) within 30 days after notification.
- M.** If a married member designated a beneficiary before July 1, 2013 that does not comply with subsection (E), upon the death of the member, the member's spouse may submit written notice to the ASRS prior to disbursement of the member's account with the following information:
1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The spouse's assertion to the spouse's right to community property;
  4. An original or copy of the marriage certificate; and
  5. An original or certified copy of the member's death certificate.
- N.** If a spouse submits written notice according to subsection (M), the ASRS shall designate the spouse as beneficiary of a percentage of the member's account according to A.R.S. §§25-211 and 25-214 and notify the member's designated beneficiary of the spouse's assertion.
- O.** The ASRS shall determine a spouse's percentage of the member's account according to subsection (L) based on the amount of service credit the member acquired during the marriage divided by the total amount of service credit the member acquired, multiplied by 50%.
- P.** If a beneficiary is notified of a spouse's assertion according to subsection (N), then before ASRS disburses a survivor benefit, the beneficiary may notify ASRS of the beneficiary's intent to appeal the spouse's right to a survivor benefit.
- Q.** Within 30 days, a beneficiary who has notified ASRS of the beneficiary's intent to appeal a survivor benefit disbursement according to subsection (P), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- R.** An original or certified copy of a DRO may supersede the requirements in subsection (B).
- S.** To consent to an alternative retirement benefit option or beneficiary designation, a member's spouse shall complete and have notarized a Spousal Consent form containing the following information:
1. Member's full name;
  2. Member's Social Security number or U.S. Tax Identification number;
  3. Whether the member's spouse is consenting to one or more of the following:
    - a. The member making a beneficiary designation that provides the spouse with less than 50% of the member's account balance;
    - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
    - c. The member naming a contingent annuitant other than the spouse; and
    - d. The spouse's notarized signature.
- T.** A member's spouse may revoke the spouse's consent to an alternative retirement benefit option or beneficiary designation by sending written notice to ASRS with the following information:
1. The member's full name
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The spouse's full name;
  4. The spouse's dated signature indicating the spouse is revoking all previous Spousal Consent forms.
- U.** A spouse who is revoking a Spousal Consent form shall ensure the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-132. Survivor Benefit Options**

- A.** The definitions in R2-8-126 apply to this Section.
- B.** If the beneficiary is eligible to elect the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits based on the attained age of the beneficiary, calculated to the nearest full month, as of the date of the member's death.
- C.** If the beneficiary elects to receive the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits effective date as of the day after the member's death and the ASRS shall pay interest up to the benefits effective date.
- D.** According to A.R.S. § 38-763, if the member elected a Period Certain and Life Annuity Retirement Benefit Option and deceases prior to the expiration of the period certain term, the member's beneficiary may elect to complete the remaining period certain term or the beneficiary may elect to receive a lump sum distribution which is the greater of:
1. The present value of the benefits based on the remaining period certain term; or
  2. The member's ASRS account balance plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member.
- E.** Notwithstanding subsection (D), a beneficiary is not eligible to elect to complete the remaining period certain term if the period certain term has expired.
- F.** If the beneficiary elects to complete the remaining period certain term or elects to receive a lump sum that is the present value of the benefits based on the remaining period certain term according to subsection (D), the ASRS shall not pay interest.
- G.** If a member's beneficiary or contingent annuitant does not want to receive a survivor benefit according to 26 U.S.C. § 2518, within nine months after the member's death, the benefi-

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ciary or contingent annuitant may submit a written request to the ASRS with the following information for the beneficiary or contingent annuitant:

1. Full name;
  2. Social Security number if the beneficiary or contingent annuitant is a U.S. citizen;
  3. Address; and
  4. Notarized signature acknowledging the following statements:
    - a. The beneficiary or contingent annuitant is aware that, as a beneficiary or contingent annuitant of the member, the beneficiary or contingent annuitant is entitled to a survivor benefit in the amount specified by the ASRS;
    - b. The beneficiary is renouncing a portion or all of the beneficiary's rights to the member's benefit;
    - c. The contingent annuitant is renouncing all of the contingent annuitant's rights to the member's benefit;
    - d. The beneficiary understands that by renouncing rights to the member's benefit, the portion that the beneficiary is renouncing will be paid to any other survivor on the member's account, or if there is no other designated survivor, the benefit will be paid to the member's estate; and
    - e. The contingent annuitant understands that by renouncing rights to the member's benefit, the ASRS shall pay the member's ASRS account balance plus interest at the Assumed Actuarial Interest and Investment Return Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member, to any other survivor on the member's account, or if there is no other designated survivor, to the member's estate.
- H. According to 26 U.S.C. § 2518, a minor beneficiary's or contingent annuitant's survivor benefit cannot be renounced.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-133. Survivor Benefit Applications**

- A. The definitions in R2-8-126 apply to this Section.
- B. The ASRS shall not distribute a survivor benefit until a claimant notifies the ASRS of a member's death by telephone or submission of a death certificate, unless the member elected a Joint and Survivor Benefit Option upon retirement.
- C. Upon notification of the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, Acceptable Form that is On File with the ASRS that was received at least one day prior to the date of the member's death, unless otherwise provided by law.
- D. The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall provide the following:
  1. An original certified death certificate or a certified copy of a court order that establishes the member's death;
  2. If the claimant is not a designated beneficiary, but is a person specified in A.R.S. § 38-762(E), a copy of a document issued from a federal, state, local, sovereign, or medical institution showing the claimant's relationship to the deceased member;
  3. A certified copy of the court order of appointment as administrator, if applicable; and
  4. Except if the deceased member was retired and elected the joint and survivor option, complete and have nota-

rized an Application for Survivor Benefits, provided by the ASRS that includes:

- a. The deceased member's full name,
- b. The deceased member's Social Security number or U.S. Tax Identification number,
- c. The benefit the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing;
- d. If the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing to roll over a benefit, the following information:
  - i. The claimant's full name;
  - ii. The name of the institution to which the claimant is electing to roll over;
  - iii. The address of the institution to which the claimant is electing to roll over;
  - iv. The full name of the authorized representative of the institution to which the claimant is electing to roll over;
  - v. The signature of the authorized representative of the institution to which the claimant is electing to roll over;
- e. If the beneficiary is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
  - i. Whether the bank account is a checking or savings account;
  - ii. The name of the banking institution to which the benefit is being sent;
  - iii. The routing number;
  - iv. The account number; and
- f. The following information for the designated beneficiary or other person specified in A.R.S. § 38-762(E):
  - i. Full name;
  - ii. Mailing address, if not On File with ASRS;
  - iii. Date of birth, if applicable; and
  - iv. Social Security number or U.S. Tax Identification number, if not On File with ASRS.
- g. The following statements of understanding:
  - i. The designated beneficiary or other person specified in A.R.S. § 38-762(E) has read and understands the Special Tax Notice Regarding Plan Payments they received with this application;
  - ii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit;
  - iii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death;
  - iv. Under penalties of perjury, the designated beneficiary or other person specified in A.R.S. § 38-762(E) certifies that:
    - (1) The Social Security number or U.S. Tax Identification number shown on this application is correct;
    - (2) They are not subject to backup withholding because:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- (a) They are exempt from backup withholding, or
  - (b) They have not been notified by the Internal Revenue Service that they are subject to backup withholding as a result of a failure to report all interest or dividends, or
  - (c) The Internal Revenue Service has notified them that they are no longer subject to backup withholding; and
  - (3) They are a legal resident of the United States, unless they are an estate or trust.
  - v. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands their right to a 30-day notice period to consider a rollover or a cash distribution and they elect to waive the notice period by their election for payment on this application;
  - vi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to another eligible retirement plan, it is their responsibility to verify that the receiving plan will accept the rollover and, if applicable, agree to separately account for the taxable and nontaxable amounts rolled over and the related subsequent earnings on such amounts;
  - vii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to an IRA plan, it is their responsibility to verify that the receiving IRA institution will accept the rollover and, if applicable, it is their responsibility to separately account for taxable and nontaxable amounts;
  - viii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to another eligible retirement plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding;
  - ix. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding.
  - xi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, they may be required to receive a minimum distribution and they certify that the date of birth shown on this form is correct.
5. For a member who elected a Joint and Survivor Retirement Benefit Option, a contingent annuitant shall submit a Joint and Survivor Certification form containing:
- a. The following information for the member:
    - i. Full name;
    - ii. Social Security number or U.S. Tax Identification number;
    - iii. Date of death; and
  - b. The following information for the beneficiary:
    - i. Legal relationship to the member;
    - ii. Full name;
    - iii. Social Security number or United States Tax Identification number, if not On File with ASRS;
    - iv. Mailing address, if not On File with ASRS;
    - v. Date of birth, if not On File with ASRS;
    - vi. If the contingent annuitant is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
      - (1) Whether the bank account is a checking or savings account;
      - (2) The name of the banking institution to which the benefit is being sent;
      - (3) The routing number;
      - (4) The account number; and
  - c. The following statements of understanding:
    - i. The contingent annuitant has read and understands the Special Tax Notice Regarding Plan Payments they received with the Joint and Survivor Certification form;
    - ii. The contingent annuitant authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit; and
    - iii. The contingent annuitant authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death.
    - d. The contingent annuitant's notarized signature.
  - E. Notwithstanding R2-8-132(H), if the beneficiary or contingent annuitant is a minor as of the date of the member's death, the beneficiary or contingent annuitant may submit a written request with the information contained in R2-8-132(G)(1) through (4) within nine months after the minor attains 18 years of age.
  - F. For a member who deceases prior to the member's retirement date, if there is no designation of beneficiary or if the designated beneficiary predeceases the member, the ASRS shall pay a survivor benefit as specified in A.R.S. § 38-762(E).
  - G. The ASRS shall begin disbursing a survivor benefit to a contingent annuitant according to A.R.S. § 38-760(B)(1) upon notification and verification of the member's death by a third party.
  - H. The ASRS shall suspend a survivor benefit for a contingent annuitant unless the contingent annuitant provides the information in subsection (D) within two months of the ASRS disbursing a survivor benefit.
  - I. If the member is domiciled in Arizona, according to A.R.S. § 14-3971, and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits an Affidavit for Collection of Personal Property to ASRS with the following:
    - 1. The claimant's name;
    - 2. The claimant's Social Security number or U.S. Tax Identification number;
    - 3. The claimant's mailing address;
    - 4. The member's name;
    - 5. The member's Social Security number or U.S. Tax Identification number;
    - 6. The date of the member's death;
    - 7. The state and county where the member died;
    - 8. Statements indicating:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. According to A.R.S. § 14-3971(B)(2)(a), no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date of the member's death;
- b. According to A.R.S. § 14-3971(B)(2)(b), the personal representative has been discharged, or more than a year has elapsed since a closing statement has been filed and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date the ASRS receives the Affidavit for Collection of Personal Property;
- c. The claimant is the successor of the member and is entitled to the member's personal property because:
- i. The claimant is named in the member's will; or
  - ii. The member did not have a will and the claimant is entitled to the member's personal property by right of intestate succession according to A.R.S. § 14-2103;
- d. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(i), then a copy of the member's will;
- e. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(ii), then the relationship between the member and the claimant and whether there are other surviving heirs;
- f. If there are other surviving heirs, then the name and relationship of each surviving heir;
- g. A statement indicating the claimant is making the Affidavit for Collection of Personal Property according to A.R.S. § 14-3971 for the purpose of making a claim to the member's ASRS account; and
- h. The claimant's notarized signature.
- J.** If the member is not domiciled in Arizona and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits legal documentation to claim the member's ASRS account that complies with the statutory requirements of the state in which the member was domiciled at the time of the member's death.
- K.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is less than \$10,000 per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's legal guardian submits the following written information:
1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The minor beneficiary's full name;
  4. The minor beneficiary's Social Security number or U.S. Tax Identification number;
  5. The full name of the minor beneficiary's legal guardian;
  6. The minor beneficiary's legal guardian's address, if not On File with ASRS; and
  7. The minor beneficiary's legal guardian's signature certifying the minor beneficiary's legal guardian has care and custody of the minor beneficiary.
- L.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is \$10,000 or more per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's conservator submits proof of court-appointed fiduciary responsibility for the minor beneficiary.
- M.** The ASRS shall remit payment to the minor beneficiary according to subsection (K) by sending the minor beneficiary's conservator a check, if the document providing proof of the court-appointed fiduciary responsibility requires payment to be made to a restricted or secure account.
- N.** If a person claims that a beneficiary or claimant is not entitled to a survivor benefit, then before ASRS disburses a survivor benefit, the person may notify ASRS of the person's intent to appeal the beneficiary's or claimant's right to a survivor benefit.
- O.** Within 30 days, a person who has notified ASRS of the person's intent to appeal a survivor benefit disbursement according to subsection (N), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- P.** If the ASRS receives documentation from, or confirmed by, a law enforcement agency, that a beneficiary or claimant may be guilty of the felonious and intentional killing of the member, the ASRS shall not distribute any benefits to the beneficiary or claimant that may be guilty of the felonious and intentional killing of the member until the matter has been adjudicated.
- Q.** If the member's estate has an appointed personal representative, the member's estate shall submit a court document identifying the personal representative for the member's estate before ASRS may distribute a survivor benefit.
- R.** If the member's estate is closed, the person claiming a right to the member's ASRS account shall provide a court document proving the estate is closed.
- S.** If the survivor receives a monthly annuity and does not provide the direct deposit information according to subsection (D)(4)(e) or (D)(5)(b)(vi), ASRS shall issue a debit benefit card.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**Table 1. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 1 repealed, new Table 1 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 2. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 2 repealed, new Table 2 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 3. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 3 repealed, new Table 3 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026,

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 4. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 4 repealed, new Table 4 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 5. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 5 repealed, new Table 5 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 6. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 6 repealed, new Table 6 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 7. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 7 repealed, new Table 7 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 8. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 8 repealed, new Table 8 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 9. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 9 repealed, new Table 9 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026,

valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 10. Repealed****Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 10 repealed, new Table 10 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 11. Repealed****Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 11 repealed, new Table 11 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Exhibit A. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 1. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 2. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 3. Repealed**







## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit L, Table 6. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit L, Table 7. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 1. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 2. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 3. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 4. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 5. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 6. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT****R2-8-201. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Coverage" means a medical and/or dental insurance plan a retired member, Disabled member, or beneficiary obtains through the ASRS or an Employer.
2. "Contingent annuitant" means the same as in A.R.S. § 38-711(8) and the person is eligible for Coverage.
3. "Disabled" means the member has a disability and is receiving long-term disability benefits pursuant to A.R.S. § 38-797 et seq.
4. "Family calculation" means the family Coverage premium described in A.R.S. § 38-783(B).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

5. "Joint & survivor" means the annuity option described in A.R.S. § 38-760(B)(1).
  6. "Net premium" means the amount of the Coverage premium reduced by the amount of the Premium Benefit provided by the ASRS.
  7. "On file" means the same as in R2-8-115.
  8. "Original retirement date" means the same as in R2-8-126.
  9. "Optional premium benefit" means the election, upon retirement, to have the Premium Benefit paid on behalf of the member's Contingent Annuitant upon death of the member pursuant to A.R.S. § 38-783.
  10. "Period-certain" means the annuity option described in A.R.S. § 38-760(B)(2).
  11. "Premium benefit" means the amount the ASRS provides on behalf of a retired member or Disabled member in order to offset the Coverage premium of the retired or Disabled member pursuant to A.R.S. § 38-783.
  12. "Single calculation" means the single Coverage premium calculation described in A.R.S. § 38-783(A).
  13. "Subsidized" means the same as in A.R.S. § 38-783(M)(4).
- retired members or Disabled members, is eligible for the greater of:
- a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
  - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
- B. Pursuant to A.R.S. § 38-783(E), a retired member who returns to work with an Employer and elects to maintain Coverage is eligible to receive a Premium Benefit if the member has an Original Retirement Date prior to August 2, 2012.
  - C. Pursuant to A.R.S. § 38-783(E), a Disabled member who elects to maintain Coverage is eligible to receive a Premium Benefit if the Disabled member became Disabled prior to August 2, 2012.
  - D. A member who receives a lump sum distribution from the ASRS upon retirement is eligible to receive a Premium Benefit pursuant to this Article.
  - E. Notwithstanding any other Section, a retired member who has an Original Retirement Date on or after August 2, 2012, or a Disabled member who became Disabled on or after August 2, 2012 is eligible to receive a Premium Benefit pursuant to this Article, only if Coverage is not Subsidized.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-202. Premium Benefit Eligibility and Benefit Determination**

- A. A retired member or Disabled member who has five or more years of service and who elects to maintain Coverage is eligible for a Premium Benefit as follows:
  1. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member only, is eligible for a Single Calculation of the Premium Benefit as described in R2-8-204(A);
  2. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is not a retired member or Disabled member is eligible for a Family Calculation of the Premium Benefit as described in R2-8-204(B).
  3. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is a retired member or Disabled member is eligible for the greater of:
    - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
    - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
  4. A retired member or Disabled member who is enrolled as a dependent on a member's insurance plan is eligible for a Single Calculation of the Premium Benefit described in R2-8-204(A) if:
    - a. The retired member has an Original Retirement Date prior to August 2, 2012; or
    - b. The Disabled member became Disabled prior to August 2, 2012;
  5. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and multiple dependents, some of whom are

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-203. Payment of Premium Benefit**

- A. Every month, the ASRS shall provide a Premium Benefit to the Employer on behalf of a retired member, Disabled member, or Contingent Annuitant who maintains Coverage and is eligible to receive a Premium Benefit pursuant to R2-8-202.
- B. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration or the ASRS, the ASRS shall reduce the retired member's pension amount by the amount of the retired member's Net Premium for Coverage pursuant to this Article, unless the Net Premium exceeds the pension amount.
- C. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the ASRS and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the retired member's insurance company and the ASRS shall:
  1. Not reduce the retired member's pension amount; and
  2. Remit payment of the Premium Benefit to the retired member's insurance company.
- D. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

for remitting the Net Premium to the Arizona Department of Administration and the ASRS shall:

1. Not reduce the retired member's pension amount; and
  2. Remit payment of the Premium Benefit to the Arizona Department of Administration.
- E.** If a Disabled member who is eligible to receive a Premium benefit pursuant to R2-8-202 maintains Coverage with the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the Arizona Department of Administration, unless the Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- F.** If a Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with the ASRS, the ASRS shall remit the Premium Benefit to the Disabled member's insurance company and the Disabled member shall be responsible for remitting the Net Premium to the Disabled member's insurance company.
- G.** If a retired member or Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with an Employer other than the ASRS or the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the retired member's or Disabled member's Employer, unless the retired member or Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- H.** If a retired member or Disabled member is eligible to receive a Premium Benefit pursuant to R2-8-202, the ASRS shall provide the lesser of the following for any one retired member or Disabled member:
1. The actual cost of the Coverage premium; or
  2. The greatest Premium Benefit calculation for which the retired member or Disabled member is eligible pursuant to R2-8-202.
- I.** If a retired member is eligible to receive a Premium Benefit pursuant to R2-8-202 and the member retires from the ASRS in addition to retiring from another State retirement system or plan described in A.R.S. § 38-921, each month, the ASRS shall remit any Premium Benefit for which the retired member is eligible under this Article to the other State retirement system or plan from which the member retired.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

**R2-8-204. Premium Benefit Calculation**

- A.** A Single Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or non-Medicare status.
- B.** A Family Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or Non-Medicare status, and the Medicare or Non-Medicare status of any dependents for which the retired member or Disabled member has obtained Coverage.
- C.** A Contingent Annuitant who is eligible to receive an Optional Premium Benefit pursuant to R2-8-207 shall receive an Optional Premium Benefit amount based on:
1. The retired member's years of service and optional retirement benefit election pursuant to A.R.S. § 38-760; and
  2. The Contingent Annuitant's Coverage and Medicare or non-Medicare status.

- D.** Notwithstanding R2-8-203(H), if a Contingent Annuitant is a retired member, the Contingent Annuitant may be entitled to receive more than one Premium Benefit.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-205. Premium Benefit Documentation**

- A.** Every year, prior to the effective date of Coverage, an Employer shall report to the ASRS all the Coverage plans and premium rates the Employer offers to its retired or Disabled employees.
- B.** An Employer shall inform the ASRS of any changes to the retired member's, Disabled member's, or Contingent Annuitant's Coverage, including enrollment in Coverage, maintained through the Employer within 30 days of the changes taking effect.
- C.** Using the Employer's secure ASRS website account, or another ASRS approved method, an Employer shall submit the following health insurance enrollment, change, and/or deletion information pursuant to subsection (B):
1. The retired member's, Disabled member's, or Contingent Annuitant's Social Security number or U.S. Tax Identification number;
  2. The retired member's, Disabled member's, or Contingent Annuitant's full name;
  3. The retired member's, Disabled member's, or Contingent Annuitant's date of birth;
  4. The Coverage in which the retired member, Disabled member, or Contingent Annuitant is enrolling;
  5. The type of change that is being made to the Coverage;
  6. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
    - a. First and last name;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth; and
    - d. Medicare number, if applicable.
  7. The old and new premium amounts for Coverage;
  8. The effective date of the change, deletion, and/or enrollment;
  9. The Employer's name and telephone number;
  10. A certification by the Employer representative's dated signature that the information is current and correct.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-206. Six-Month Reimbursement Program**

- A.** For a retired member or Disabled member who is eligible for a Premium Benefit pursuant to R2-8-202(A)(4) or (B), the ASRS shall remit the Premium Benefit to the retired member or Disabled member pursuant to subsection (B).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- B. Pursuant to subsection (A), the ASRS shall remit the Premium Benefit to the retired member or Disabled member every six months, payable in July and January. For purposes of this Section, the Premium Benefit shall be the aggregate amounts of the Premium Benefit the retired member or Disabled member is entitled to receive during the previous six months.
- C. In order to receive a Premium Benefit payment pursuant to subsection (B), a retired member or Disabled member shall submit to the ASRS the Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form after the last day of the last month for which the retired member or Disabled member is seeking reimbursement.
- D. The Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form that a retired member or Disabled member submits pursuant to subsection (C) shall include the following information:
1. The retired member's or Disabled member's Social Security number or U.S. Tax Identification number;
  2. The retired member's or Disabled member's full name;
  3. The retired member's or Disabled member's mailing address and phone number;
  4. The retired member's or Disabled member's date of birth;
  5. The retired member's or Disabled member's status with the ASRS;
  6. The retired member's or Disabled member's status with the retired member's or Disabled member's Employer;
  7. The following Coverage information for the Coverage policy holder:
    - a. First and last names;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth;
    - d. Effective date of Coverage;
  8. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
    - a. First and last name;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth;
    - d. Effective date of Coverage;
  9. Six-month reimbursement totals identified by:
    - a. The month and year the premium is due for Coverage;
    - b. The total medical plan premium per month;
    - c. The total dental plan premium per month;
    - d. The employee's out-of-pocket payroll deduction for a medical premium per month;
    - e. The employee's out-of-pocket payroll deduction for a dental premium per month;
    - f. The employee's total out-of-pocket payroll deduction for medical and dental premiums per month;
  10. The Employer's name;
  11. The Employer's phone number;
  12. The Employer's email address;
  13. The name of the Employer's representative; and
  14. The dated signature of the Employer's representative.
- Historical Note**
- New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).
- R2-8-207. Optional Premium Benefit**
- A. A member who retires on or after January 1, 2004 is eligible to elect the Optional Premium Benefit to be effective on the date of the retired member's retirement and may designate a Contingent Annuitant to receive the Optional Premium Benefit upon the death of the retired member if:
1. The retired member elects a retirement option under A.R.S. § 38-760; and
  2. The retired member elects to maintain Coverage.
- B. A retired member who returns to active membership for 60 consecutive months or more before retiring again, may elect or re-elect the Optional Premium Benefit pursuant to subsection (A).
- C. A retired member who does not return to active membership for 60 consecutive months or more before retiring again is not eligible to elect the Optional Premium Benefit pursuant to subsection (A) unless the retired member elected the Optional Premium Benefit to be effective on the date of the retired member's Original Retirement Date.
- D. In order to elect, re-elect, or terminate the Optional Premium Benefit pursuant to subsection (A), the retired member shall submit to the ASRS the Optional Premium Benefit Program Election or Termination form containing the following information:
1. The retired member's Social Security number or U.S. Tax Identification number;
  2. Whether the retired member is electing, declining, or terminating the Optional Premium Benefit;
  3. The following information for the Contingent Annuitant if the retired member is electing or re-electing the Optional Premium Benefit:
    - a. The Social Security number or U.S. Tax Identification number;
    - b. The full name; and
    - c. The date of birth, if not On File; and
  4. Certification of understanding by the retired member's dated signature of the following statements:
    - a. I have a one-time election at the time of retirement for this benefit, and have a retirement date on or after January 1, 2004;
    - b. I must elect a Joint & Survivor or Period-Certain annuity option;
    - c. If I elect to participate, my Contingent Annuitant must be either participating or eligible to participate in my retiree health care plan at the time of my death;
    - d. I must provide proof of birth date for my Contingent Annuitant;
    - e. The Premium Benefit will be actuarially reduced for the remainder of my benefit and my Contingent Annuitant's benefit as long as the Optional Premium Benefit is elected; and
    - f. I may rescind the election at any time and be eligible for the unreduced Premium Benefit payable as provided by law.
- E. In order to elect or re-elect the Optional Premium Benefit, a member shall submit the Optional Premium Benefit Program Election or Termination form to the ASRS prior to the member's Original Retirement Date.
- F. A Contingent Annuitant the retired member designates to receive the Optional Premium Benefit upon the retired member's death is eligible to receive a Premium Benefit if:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. The retired member designates the Contingent Annuitant as the primary beneficiary on the member's retirement account;
  2. The Contingent Annuitant is enrolled in a Coverage plan at the time of the member's death or the Contingent Annuitant enrolls in a Coverage plan within six months of the retired member's death pursuant to A.R.S. § 38-782(A); and
  3. The Contingent Annuitant is eligible to receive at least one monthly payment.
- G.** Upon the death of a retired member who elected the Optional Premium Benefit pursuant to subsection (A), the ASRS shall provide the Optional Premium Benefit on behalf of the retired member's Contingent Annuitant who is eligible to receive the Optional Premium Benefit pursuant to subsection (F).
- H.** Notwithstanding subsection (G), the amount of the Optional Premium Benefit the ASRS provides on behalf of a Contingent Annuitant shall not exceed the actual amount of the Coverage premium.
- I.** Unless otherwise indicated by law, the Optional Premium Benefit shall not terminate upon the death of the retired member if a Contingent Annuitant is eligible for the Optional Premium Benefit pursuant to subsection (F).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**ARTICLE 3. LONG-TERM DISABILITY****R2-8-301. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Attending Physician" means a provider:
  - a. Who is a qualified medical provider or other legally qualified practitioner of a healing art that the claims administrator recognizes or is required by law to recognize;
  - b. Whose medical training and clinical experience are qualified to treat the member's disabling condition;
  - c. Whose diagnosis and treatment is consistent with the diagnosis of the disabling condition, according to guidelines established by medical, research, and rehabilitative organizations;
  - d. Who is licensed to practice in the jurisdiction where care is being given;
  - e. Who is practicing within the scope of the license; and
  - f. Who is not related to the member by blood or marriage.
2. "Direct Care" means the member is actively receiving treatment from a provider for the member's disability at least once per calendar year.
2. "Estimated Social Security disability income amount" means the same as in R2-8-801(2).
3. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.

4. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
5. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).
6. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-302. Application for Long-Term Disability Benefit**

- A.** In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.
- B.** Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.
- C.** Pursuant to A.R.S. § 38-797.07(11), in order to submit an application for an LTD benefit, a member must provide objective medical evidence from an Attending Physician.
- D.** Pursuant to A.R.S. § 38-797.07(7)(b)(i), in order to continue receiving an LTD benefit, the disabled member must be under the Direct Care of a doctor.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-303. Long-Term Disability Calculation**

- A.** The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).
- B.** For a member whose monthly compensation is \$0 as of the date of disability, the ASRS shall pay a monthly benefit of \$50 unless the benefit is reduced pursuant to R2-8-807 or required to be reduced pursuant to A.R.S. § 38-797.07(A)(2).
- C.** The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).
- D.** Notwithstanding any other section, a member who became disabled on or after August 27, 2019, shall not receive a benefit under this article that would increase the member's monthly compensation after disability to an amount that exceeds 100% of the member's monthly compensation before disability.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Amended by final rulemaking at 27 A.A.R. 89, effective March 9, 2021 (Supp. 21-1).

**R2-8-304. Payment of Long-Term Disability Benefit**

- A.** The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

sooner than six months after the date the disabled member became disabled.

- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-305. Social Security Disability Appeal**

- A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.
- B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.
- C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:
  1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or
  2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.
- D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

**R2-8-306. Approval of Social Security Disability**

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or
2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD****R2-8-401. Definitions**

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.
4. "Health Plan" means an arrangement under which ASRS engages a Health Plan Vendor for coverage for members and their eligible dependents for routine, preventive, and emergency health-care procedures, pharmaceuticals, dental, vision, or other services and benefits funded through an insurance policy in which the Health Plan Vendor processes and pays claims as an insurer, or a self-funded arrangement in which the Health Plan Vendor processes and pays claims using ASRS funds.
5. "Health Plan Vendor" means an entity that enters into a contract with ASRS to provide an insured Health Plan or to administer, process, and pay claims for a Health Plan self-insured by ASRS.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 23 A.A.R. 2749, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 28 A.A.R. 223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R2-8-402. General Procedures**

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

**R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action**

- A. After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
  1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
  2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision or Health Plan Vendor decision.
- B. Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
  1. The decision the agency is making in response to the letter of appeal; and

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.
- C. A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.
- D. Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such director's designee shall send a response letter by certified mail to the person requesting the appeal that includes:
1. The agency action the ASRS is taking in response to the letter of appeal; and
  2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).
- E. For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
1. The name and mailing address of the member, employer, or other person filing the Request;
  2. The name and mailing address of the attorney for the person filing the Request, if applicable;
  3. A concise statement of the reasons for the appeal.
- F. The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).
- G. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).
- H. Pursuant to subsection (B):
1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
  2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.
- I. The Board has delegated to each Health Plan Vendor the authority to:
1. Interpret and apply the terms of the Health Plan Vendor's particular Health Plan;
  2. Determine whether a particular benefit is included in the Health Plan and, if included, the amount of payment to be made under the Health Plan; and
  3. Perform a full and fair review of any decision by the Health Plan Vendor regarding benefits included in or payments to be made under the Health Plan if the decision is appealed in accordance with the Health Plan Vendor's specified procedures.
- J. An individual who is enrolled in a Health Plan made available by ASRS and who wishes to appeal a decision by the Health Plan Vendor shall follow the appeal procedures specified in the applicable Health Plan description.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 28 A.A.R.

223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings**

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular meeting, shall be reviewed by the Board at that meeting. At the meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the meeting at which the Board made the final decision.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision**

- A. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.
- B. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.
- C. A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.
- D. The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;
  2. Misconduct of the Board, the hearing officer, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the process of the action; or
  7. That the decision, or findings of fact, is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the final administrative decision or grant a rehearing before the Board or review of final administrative decision to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- granting a rehearing or review shall specify with particularity the grounds for the order.
- F.** Not later than 10 days after the final administrative decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its final administrative decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- G.** When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- H.** The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- I.** If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.
- Historical Note**
- New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).
- ARTICLE 5. PURCHASING SERVICE CREDIT**
- R2-8-501. Definitions**
- The following definitions apply to this Article unless otherwise specified:
1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
  2. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
  3. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
    - a. Eligible Member's Current Years of Credited Service;
    - b. Eligible Member's age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;
    - c. Amount of Service Credit the member wishes to purchase; and
    - d. Member's current annual compensation.
  4. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member's IRA or 403(b) is not maintained by the member's Employer.
  5. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
  6. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
  7. "Direct rollover" means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
  8. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
  9. "Eligible member" means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
  10. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
  11. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
  12. "Irrevocable PDA" means an irrevocable "Payroll Deduction Authorization" contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
  13. "Leave of absence service" means an approved leave of absence without pay as specified in A.R.S. § 38-744.
  14. "LTD" means the same as in R2-8-301.
  15. "Military Call-up service" means a member is called to Active Duty in a branch of the United States Uniformed Services.
  16. "Military service" means Active Duty or Active Reserve Duty with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
  17. "Military service record" means a United States Uniformed Services or National Oceanic and Atmospheric Administration document that provides the following information:
    - a. The member's full name;
    - b. The member's Social Security number;
    - c. Type of discharge the member received; and
    - d. Active Duty dates, if applicable; or
    - e. Active Reserve Duty dates, if applicable; and
    - f. Point history for Active Reserve Duty dates, if applicable.
  18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
  19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
  20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
  21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service under A.R.S. § 38-745, and Other Public Service that an Eligible Member may purchase.
  22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- money required to purchase a specified amount of Service Credit.
23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).
  24. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
  25. "Transfer employment" means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
    - a. After accepting an offer to work for a new Employer;
    - b. While working as an active member for a different Employer; or
    - c. Before returning to work with any Employer within 120 days of terminating employment.
  26. "Trustee-to-Trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
  27. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
  28. "Window credit" means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.
2. This transaction is subject to audit. If any errors or misrepresentations are discovered as a result of an audit, the Eligible Member's total credited service with the ASRS will be adjusted as necessary and if the Eligible Member is retired, the Eligible Member's retirement benefit will also be adjusted. Any overpayment or overpayments will be refunded. However, if a payment made with a rollover or pre-tax dollars is returned to the Eligible Member, there may be tax consequences as a result of this refund.
- C. Upon receipt of the documentation required by this Article from the Eligible Member and if the Eligible Member's request to purchase Service Credit meets the requirements of this Article, the ASRS shall provide the following to the Eligible Member:
    1. An SP Invoice stating the cost to purchase the amount of Service Credit the member is eligible to purchase;
    2. Instructions for electing method of payment; and
    3. The date payment election is due.
  - D. An Eligible Member who requests to purchase Service Credit pursuant to this Section shall elect one or more methods of payment and submit the election to the ASRS by the date payment election is due.
  - E. An Eligible Member who elects to purchase Service Credit using after-tax payments shall acknowledge the following information:
    1. After-tax payments must be from the Eligible Member and remitted to the ASRS by the Eligible Member;
    2. After-tax payments cannot be used to purchase political subdivision employment with a United States territory, commonwealth, overseas possession, or insular area; and
    3. If the Eligible Member joined the ASRS on or after July 1, 1999, §§ 415(b) and 415(c) of the IRC limit the after-tax money the Eligible Member can use to purchase Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-502. Request to Purchase Service Credit and Notification of Cost**

- A. An Eligible Member may request to purchase Service Credit electronically. The Eligible Member shall verify at the time of request, the following information for the Eligible Member:
  1. Name;
  2. Mailing address;
  3. Date of birth;
  4. Marital status;
  5. Gender;
  6. Primary email address;
  7. Primary phone number; and
  8. Which category of Service Credit the Eligible Member is requesting to purchase.
- B. An Eligible Member who requests to purchase Service Credit pursuant to subsection (A) shall acknowledge the following statements of understanding:
  1. Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the retirement plan with an intent to defraud the plan is guilty of a class 6 felony per A.R.S. § 38-793; and

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-503. Requirements Applicable to All Service Credit Purchases**

- A. To purchase Service Credit at the amount provided in an SP Invoice, an Eligible Member shall purchase the Service Credit by check or money order, or request an Irrevocable PDA, Direct Rollover, Trustee-to-Trustee Transfer, or Termination Pay as specified in this Article, by the due date specified by the method of payment the Eligible Member elected.
- B. An Eligible Member may purchase all of the Service Credit or a portion of the Service Credit. If the Eligible Member wishes to purchase only a portion of the Service Credit, the Eligible Member shall specify:
  1. Either the number of years or partial years of Service Credit the Eligible Member wishes to purchase; or
  2. The cost for the number of years or partial years of Service Credit the Eligible Member wishes to purchase, not exceeding the years or partial years and cost specified on the SP Invoice.
- C. The ASRS shall not consider more than one active request at a time from a member to purchase Service Credit in a single category. The categories are:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Leave of Absence Service;
  2. Military Service;
  3. Forfeited Service; and
  4. Other Public Service.
- D.** An Eligible Member may cancel an active request by notifying the ASRS in writing.
- E.** If an Eligible Member is entitled to a Window Credit, the Eligible Member may apply the Window Credit to purchase Service Credit. To apply a Window Credit to a purchase of Service Credit, the Eligible Member shall make a request to the ASRS in writing by the date payment election is due as specified on the SP Invoice and include the following information:
1. The amount the Eligible Member wants to apply, and
  2. The Eligible Member's dated signature.
- F.** On or before the due date specified on the SP Invoice, an Eligible Member may request an extension of a due date for purchasing Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-504. Service Credit Calculation for Purchasing Service Credit**

- A.** An Eligible Member who purchases Service Credit shall receive one month of credited service for one or more days of service in a calendar month.
- B.** Pursuant to A.R.S. 38-739(B), an Eligible Member who purchases Service Credit shall receive a proportionate amount of credited service based on the length of the Eligible Member's service year.
- C.** Notwithstanding any other provision, an Eligible Member whose membership date is on or after July 20, 2011, cannot purchase more than five years of Service Credit for each of the following based on the length of the Eligible Member's service year:
1. Leave of Absence Service;
  2. Military Service; and
  3. Other Public Service.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-505. Restrictions on Purchasing Overlapping Service Credit**

The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:

1. One year of credited service in any plan year, or
2. One month of credited service in any one calendar month.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-506. Cost Calculation for Purchasing Service Credit**

- A.** For Service Credit for Leave of Absence Service, Military Service, and Other Public Service, the ASRS shall calculate, as of the date of the request to purchase Service Credit:
1. The Actuarial Present Value of the future retirement benefit for the Eligible Member including the Service Credit that the Eligible Member requests to purchase, and
  2. The Actuarial Present Value of the future retirement benefit for the Eligible Member without the Service Credit that the Eligible Member requests to purchase.
- B.** The cost for purchasing the Service Credit that the Eligible Member requests to purchase is the difference between the Actuarial Present Value in subsection (A)(1) and the Actuarial Present Value in subsection (A)(2).

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-507. Required Documentation and Calculations for Forfeited Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Forfeited Service under A.R.S. § 38-742 shall provide the ASRS:
1. The name of an Employer, if known, for which the Eligible Member is requesting to purchase Service Credit for Forfeited Service; and
  2. The year and month the Eligible Member believes the ASRS returned retirement contributions.
- B.** Upon receipt of payment as specified in subsection (D), the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- C.** Notwithstanding subsection (B), if an Eligible Member has more than one return of contributions pursuant to A.R.S. § 38-740, the Eligible Member may elect to purchase Forfeited Service for any of the return of contributions and the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- D.** The amount the Eligible Member shall pay to purchase Service Credit for previously Forfeited Service is the amount of retirement contributions that the ASRS issued, plus interest on that amount from the date on the return of retirement contributions check to the date of redeposit at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Leave of Absence Service under A.R.S. § 38-744 shall provide to the ASRS an Approved Leave of Absence form that includes:
1. The following information completed by the Eligible Member:
    - a. The start date and end date of the approved leave of absence;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- b. The date the Eligible Member returned to work or a statement of why employment was not resumed;
  - c. The name of the Employer;
  - d. Whether the Eligible Member participated in another public retirement system during this leave of absence; and
  - e. If the Eligible Member participated in another public retirement system during the leave of absence, whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the other public retirement system; and
2. Acknowledgement of the following statements of understanding:
    - a. The Eligible Member understands that up to one year of Service Credit may be purchased for each approved leave of absence, if the Eligible Member returns to work for the Employer that approved the leave of absence unless employment could not be resumed because of disability or nonavailability of a position;
    - b. The Eligible Member authorizes the Employer to provide any necessary personal information to ASRS in order to process this request; and
    - c. The Eligible Member certifies that if the Eligible Member participated in another public retirement system during the approved leave of absence, the Eligible Member is not receiving, and is not eligible to receive, a benefit from the other public retirement system for the time during the approved leave of absence; and
  3. The Eligible Member's dated signature.
- B.** Pursuant to A.R.S. § 38-744, a member who participated in another public retirement system during the leave of absence, and is receiving a benefit or is eligible to receive a benefit from the other public retirement system, is not an Eligible Member for purposes of this Section.
- C.** If the information provided by the Eligible Member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the Eligible Member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account.
- D.** Upon submitting the information specified in subsection (B), the Employer shall acknowledge the following statements of understanding:
1. The Employer has verified all the dates for the approved leave of absence period are correct; and
  2. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- E.** The amount the Eligible Member shall pay to purchase Service Credit for an approved leave of absence is determined as provided in R2-8-506.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-509. Required Documentation and Calculations for Military Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Military Service under A.R.S. § 38-745(A) and (B) shall provide to the ASRS:

1. A copy of the Eligible Member's Military Service Record within 30 days of the Eligible Member's request to purchase Service Credit; and
2. A Military Service form that contains:
  - a. Whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the military.
  - b. The branch of the Uniformed Services the Eligible Member was in;
  - c. Whether the Eligible Member was on Active Duty or Active Reserve Duty;
  - d. The start date and end date of the Eligible Member's Military Service for which the Eligible Member is requesting to purchase Service Credit;
  - e. Acknowledgement that the Eligible Member will submit to the ASRS:
    - i. Proof of honorable separation for each type of Military Service listed on the form; and
    - ii. The Eligible Member's Military Service Record that supports all of the service listed on the form;
  - f. Acknowledgement of the following statements of understanding:
    - i. The Eligible Member understands that the service listed on this form does not include time that the Eligible Member either volunteered or was ordered into Active Duty service as part of a military call-up while employed by an Employer. This service is purchased under Military Call-up Service and requires a Military Call-up form to be completed by the Eligible Member's Employer; and
    - ii. The Eligible Member understands that any time the Eligible Member has listed on this form for Reserve or National Guard time reflects the months that the Eligible Member attended at least one drill or assembly for each month listed.

- B.** The amount the Eligible Member pays to purchase Service Credit for Military Service is determined as provided in R2-8-506.
- C.** The ASRS determines the amount of Service Credit an Eligible Member receives for Active Duty and Active Reserve Duty time by the time listed on the Military Service form, if the service listed is supported by the information contained in the Eligible Member's Military Service Record.
- D.** If the ASRS has not received complete and correct documents pursuant to this Section within 30 days of the request to purchase Service Credit, the ASRS shall cancel the Eligible Member's request to purchase Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-510. Required Documentation and Calculations for Military Call-up Service Credit**

- A.** An Eligible Member who meets the requirements under A.R.S. § 38-745(D) shall receive up to 60 months of Service Credit, not to exceed 5 years of Service Credit for Military Call-up Service under A.R.S. § 38-745(D) through (K). In order to determine the amount of contributions the Employer owes to purchase Service Credit for Military Call-up Service, the Eligible Member's Employer shall provide to the ASRS a

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

copy of the Eligible Member's Military Service Record and a completed Military Call-up form that includes the following:

1. The Eligible Member's full name;
  2. The Eligible Member's Social Security number;
  3. The start date of Military Call-up Service;
  4. The end date of Military Call-up Service;
  5. The date the Eligible Member returned to work for the Employer;
  6. The salary for each pay period in each fiscal year while the Eligible Member was on military call-up, including any salary increases the Eligible Member would have received had the Eligible Member not left work due to military call-up;
  7. The name of a contact individual for the Employer, and that individual's business telephone number;
  8. The contact individual's dated signature;
  9. If applicable, the dates that the Eligible Member was hospitalized and released from the hospital as a result of participating in a military call-up.
  10. If applicable, the date the Eligible Member became disabled during or as a result of participating in a military call-up;
  11. If applicable, the date of the Eligible Member's death during or as a result of participating in a military call-up; and
  12. Acknowledgement of the following statements of understanding:
    - a. All the dates and payroll information for the Military Call-up Service are correct;
    - b. The Eligible Member:
      - i. Was honorably separated from Active Duty and returned to the same Employer within 90 days of either discharge from Active Duty or release from service-related hospitalization; or
      - ii. Was disabled and unable to return to work; or
      - iii. Died during or as a result of Active Duty.
    - c. The Employer must pay both the employee and Employer contributions in a lump sum upon the Eligible Member returning to employment, receipt of a declaration of disability, or receipt of a death certificate. These contributions are based on the salary the Eligible Member would have earned if the Eligible Member had not volunteered or been ordered into Active Duty;
    - d. The Eligible Member may receive a maximum of 60 months of Service Credit for Military Call-up Service pursuant to A.R.S. § 38-745; and
    - e. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- B.** An Employer shall make the request to purchase Service Credit for Military Call-up Service within 30 days after the earlier of the dates listed in A.R.S. § 38-745(E).
- C.** The ASRS calculates the amount the Employer pays to purchase Military Call-up Service pursuant to A.R.S. § 38-745(G) by multiplying the Eligible Member's salary per pay period at the time Active Duty commences, by the contribution rate in effect for the period of Active Duty. Included in the calculation are any salary increases the Eligible Member would have received if the Eligible Member had not left work to participate in a military call-up.
- D.** The ASRS shall send the Employer a statement of cost for purchase of the Service Credit for Military Call-up Service based on the calculation in subsection (C). Within 90 days from the date on the ASRS statement of cost, the Employer shall pay to the ASRS the amount on the statement. If the Employer fails to make full payment within 90 days, interest shall accrue on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect on the date of the statement of cost as specified in R2-8-118(A). The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- E.** If an Employer remits retirement or long-term disability contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, the Employer shall reverse the contributions after the ASRS receives the information in subsection (A).
- F.** If an Employer remits retirement contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, and the Eligible Member does not return to the Employer after separation from active Military Service, the ASRS shall apply the retirement contributions to the Eligible Member's credited service.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

#### R2-8-511. Required Documentation and Calculations for Other Public Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Other Public Service under A.R.S. § 38-743 shall provide to the ASRS a completed Other Public Service form, signed and dated by the Eligible Member, that includes the following:
1. The name and mailing address of the Other Public Service employer;
  2. The position the Eligible Member held while working for the Other Public Service employer;
  3. The start date and end date of the Eligible Member's employment with the Other Public Service employer;
  4. The actual months and years the Eligible Member was employed with the Other Public Service employer;
  5. A statement of whether the Eligible Member participated in the Other Public Service employer's retirement plan;
  6. If the Eligible Member participated in the Other Public Service employer's retirement plan, the name of the retirement plan, identifying whichever one of the following applies:
    - a. The approximate date the Eligible Member took a return of retirement contributions;
    - b. The plan is non-contributory and the Eligible Member is not eligible for benefits from the plan; or
    - c. That, if not using all of the retirement contributions as a rollover, the Eligible Member will request a return of retirement contributions and forfeit all rights to any benefits from the plan and provide the ASRS with documentation that the Eligible Member has forfeited all rights to benefits from the plan no later than the due date specified on the SP Invoice; and
  7. Acknowledgement that if an audit determines that the Eligible Member is eligible for a benefit from the Other Public Service employer's retirement plan, the Eligible Member is required to take necessary steps to forfeit the benefit, and if the forfeiture is not completed within 90 days of being notified of the audit results, the Service Credit purchase listed on this application will be revoked and any funds paid to purchase the Service Credit will be refunded to the member.
- B.** The amount the Eligible Member shall pay to purchase Service Credit for Other Public Service is determined as provided in R2-8-506.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- C. Notwithstanding R2-8-512, the ASRS shall not accept after-tax monies for the purchase of Service Credit for Other Public Service with a territory, commonwealth, overseas possession or insular area pursuant to A.R.S. § 38-743.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order**

- A. An Eligible Member may purchase Service Credit by personal check in the Eligible Member's name, cashier's check, or money order remitted by the Eligible Member.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives a check, cashier's check, or money order made payable to the ASRS in the amount to purchase the requested Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513. Purchasing Service Credit by Irrevocable PDA**

- A. An Eligible Member may purchase Service Credit by Irrevocable PDA.
- B. If the Eligible Member elects to pay for Service Credit by Irrevocable PDA, the Eligible Member shall elect the terms of the Irrevocable PDA and submit the Irrevocable PDA to the ASRS and the Employer with the following:
1. Acknowledgements:
    - a. This Irrevocable PDA is binding and irrevocable;
    - b. This Irrevocable PDA shall remain in effect until the earlier of:
      - i. The authorized payroll deductions are completed; or
      - ii. The Eligible Member terminates employment.
    - c. The ASRS cannot terminate the Irrevocable PDA due to financial hardship;
    - d. The amount of Irrevocable PDA payments the Eligible Member makes is subject to federal laws;
    - e. The cost to purchase Service Credit by Irrevocable PDA includes an administrative interest charge at the Assumed Actuarial Investment Earnings Rate in effect at the time of the authorization as specified in R2-8-118(A);
    - f. Payments specified in this Irrevocable PDA are in addition to the regular contributions required pursuant to A.R.S. §§ 38-736 and 38-797.05;
    - g. The ASRS shall apply credited service to the Eligible Member's account upon receipt of payments authorized by the Eligible Member under this Irrevocable PDA; and
    - h. The ASRS shall not transfer, refund, or disburse the administrative interest that the ASRS charges pursuant to subsection (B)(1)(e); and
  2. Statements of Understanding:
    - a. It is the Eligible Member's responsibility to ensure the Eligible Member's Employer properly deducts payments and submits contributions as provided by the terms of the Irrevocable PDA;

- b. Payments specified by the terms of this Irrevocable PDA shall be made directly to the ASRS from the Eligible Member's Employer and the Eligible Member does not have the option of receiving such payments directly from the Employer;
- c. The Eligible Member's Employer shall make payments pursuant to this Irrevocable PDA after other mandatory deductions are made;
- d. The Eligible Member's Employer cannot accept an election to change this Irrevocable PDA;
- e. The Eligible Member has up to 14 days to request the ASRS calculate the remaining balance of this Irrevocable PDA after the earlier of:
  - i. Terminating employment;
  - ii. Terminating LTD without returning to work with an Employer; or
  - iii. The effective ASRS retirement date;
- f. The Eligible Member must complete a purchase of the remaining balance on this Irrevocable PDA by the due date specified on the PDA Pay-off Invoice;
- g. It is the Eligible Member's responsibility to notify the ASRS of any changes in the Eligible Member's employment that may affect the status of this Irrevocable PDA;
- h. If the Eligible Member terminates employment and returns to work with an Employer within 120 days of terminating employment, this Irrevocable PDA must continue with the new Employer pursuant to R2-8-513.01; and
  - i. If the Eligible member terminates employment and does not return to work with an Employer within 120 days of terminating employment, the ASRS shall terminate this Irrevocable PDA pursuant to R2-8-513.01.

- C. By submitting the Irrevocable PDA to the ASRS, the Irrevocable PDA is deemed to be signed by the Eligible Member.
- D. At the time the Eligible Member elects the Irrevocable PDA, the Eligible Member may elect to use Termination Pay towards the balance of the Irrevocable PDA if the Eligible Member terminates employment. If the Eligible Member elects to use Termination Pay, the Eligible Member shall submit the Irrevocable PDA to the ASRS with the following information:
1. A statement that the Eligible Member:
    - a. Understands and agrees that the Eligible Member must continue working at least Three Full Calendar Months after the date of submission of the form before Termination Pay may be used on a pre-tax basis;
    - b. Understands that if the Termination Pay exceeds the balance owed on the Irrevocable PDA, the overage will be returned to the Employer to be distributed to the Eligible Member;
    - c. Understands that the election to use Termination Pay is binding and irrevocable;
    - d. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
    - e. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
    - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
- h. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
2. Whether the Eligible Member is electing either all Termination Pay or a specified amount of Termination Pay to be applied to the balance of the Irrevocable PDA.
- E.** The ASRS shall:
1. Charge interest on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect at the time the Eligible Member submitted the request to purchase service as specified in R2-8-118(A);
  2. Limit the payroll deduction time period to a maximum of 520 payments; and
  3. Require a minimum payment of \$10.00 per payroll period, or payment in an amount to purchase at least .001 years of Service Credit per payroll period, whichever is greater.
- F.** The Employer shall implement the payroll deduction on the first pay period after receiving the Irrevocable PDA.
- G.** If a deduction is not made under an Irrevocable PDA within six months after the Eligible Member submits the authorization, the authorization lapses and the Eligible Member may make another request, which is recalculated based on the new request date unless the failure to begin deductions is due to an ASRS error.
- H.** A period of leave of absence, LTD, or military call-up shall not cancel the Irrevocable PDA. The Employer shall resume deductions immediately upon the Eligible Member's return to that Employer. The period during which the Eligible Member is on leave of absence, on LTD, or leaves work because of a military call-up is not included in the payment time limitation under subsection (D)(2). If the Eligible Member does not return to active working status, whether due to termination of employment or retirement, the Eligible Member may elect to purchase the balance of unpaid service under the Irrevocable PDA at the time of termination or retirement as specified in this Section.
- I.** Deductions made pursuant to an Irrevocable PDA continue until the:
1. Irrevocable PDA is completed;
  2. Eligible Member retires, whether or not the Eligible Member continues employment as allowed in A.R.S. §§ 38-766.01 and 38-764(I);
  3. Eligible Member terminates all ASRS employment without transferring employment; or
  4. Date of the Eligible Member's death.
- J.** If an Eligible Member retires or terminates employment from all Employers without transferring employment as stated in R2-8-513.01 before all deductions are made as authorized by the Irrevocable PDA, the ASRS shall cancel the Eligible Member's Irrevocable PDA unless the Eligible Member notifies the ASRS of the Eligible Member's intent to purchase the remaining amount within 14 days after the earlier of either termination or retirement.
- K.** When the Eligible Member notifies the ASRS of retirement or termination from all ASRS employment and requests to pay off the Irrevocable PDA, the ASRS shall send the Eligible Member a PDA Pay-off Invoice through the Eligible Member's secure ASRS account. The ASRS shall calculate the amount owed by the Eligible Member.
- L.** By the date payment election is due, the Eligible Member shall ensure that the ASRS receives the information specified in R2-8-502(C).
- M.** The Eligible Member may purchase the remaining Service Credit by one or more of the following methods by the due date specified on the PDA Pay-off Invoice:
1. By any method specified in R2-8-512;
  2. By making a request to the ASRS for a rollover or transfer under R2-8-514 and completing the rollover or transfer by the due date specified on the PDA Pay-off Invoice; or
  3. By Termination Pay under R2-8-519, if the Eligible Member authorized this option at the time the Eligible Member signed the Irrevocable PDA.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513.01. Irrevocable PDA and Transfer of Employment to a Different Employer**

- A.** If an Eligible Member Transfers Employment, the Eligible Member's new Employer shall continue to make deductions pursuant to an Irrevocable PDA.
- B.** If an Eligible Member terminates employment without having accepted an offer to work with an Employer, the ASRS shall terminate an Irrevocable PDA.
- C.** Notwithstanding subsection (B), if a retirement contribution is due from a new Employer within 120 days from the Eligible Member's termination date with the previous Employer, the ASRS shall determine that the Eligible Member Transferred Employment, unless the Eligible Member notified the ASRS of the termination of employment.
- D.** If an Eligible Member who has elected Termination Pay pursuant to R2-8-513(D) Transfers Employment, the ASRS shall not accept any Termination Pay that the ASRS receives from the Eligible Member's previous Employer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513.02. Termination Date**

- For the purpose of an Irrevocable PDA, the date an Eligible Member is considered terminated from an Employer is:
1. For an Eligible Member terminating employment, the Eligible Member's last pay period end date with that Employer;
  2. For an Eligible Member on military call-up who does not return to the same Employer:
    - a. 90 days from the date of separation from military call-up;
    - b. 90 days from the date released from the hospital, if injured while on military call-up; or
    - c. The date the Eligible Member has been hospitalized for two years for injuries sustained as a result of participating in a military call-up.
  3. For an Eligible Member on leave of absence without pay who does not return to the same Employer, the date the Employer required the Eligible Member to return to work;
  4. For an Eligible Member who is unable to work because of a disability, the later of:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. The date the Eligible Member's request for long-term disability benefits are denied;
- b. The date the Eligible Member no longer has leave with pay available; or
- c. For an Eligible Member on long-term disability who does not return to the same Employer or Transfer Employment, the date long-term disability benefits are terminated.
- d. The funds must be sent as a Direct Rollover from a plan listed in subsection (C)(3)(b) and issued to the ASRS for the benefit of the Eligible Member. If the payment is issued to anyone other than the ASRS, including the Eligible Member, then within 60 days of the plan issuing the payment, the Eligible Member must place the payment into a plan specified in subsection (C)(3)(b) to be reissued directly to the ASRS.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer**

- A. An Eligible Member may purchase Service Credit by Direct Rollover or Trustee-to-Trustee Transfer pursuant to this Article.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives the payment for the service purchase and a completed Direct Rollover/Transfer Certification to Purchase Service Credit form.
- C. An Eligible Member who chooses to purchase Service Credit shall provide the following to the ASRS:
  - 1. The name of the financial institution or plan;
  - 2. Whether the Eligible Member is choosing to rollover/transfer the entire balance of their account and if not, the amount of the rollover/transfer;
  - 3. Acknowledgement of the following information:
    - a. After-tax funds are only acceptable from 401(a) and 403(b) plans and must be listed separately from the portion that is pre-tax on the payment as after-tax amounts. This information must be provided to the ASRS with the payment.
    - b. The only fund types that the ASRS accepts are:
      - i. 401(a);
      - ii. 401(k) pre-tax only;
      - iii. 403(b);
      - iv. Governmental 457 pre-tax only;
      - v. 403(a) pre-tax only;
      - vi. 408 Traditional IRA pre-tax only;
      - vii. 408(k) SEP IRA pre-tax only;
      - viii. 408(p) Simple IRA pre-tax only and only if the Eligible Member participated for at least 2 years in this plan;
    - c. The ASRS shall not accept the following fund types:
      - i. Roth funds;
      - ii. Funds already distributed to the Eligible Member from a retirement plan listed in subsection (C)(3)(b);
      - iii. Inherited IRA;
      - iv. Coverdale Education Savings Account funds;
      - v. Hardship distributions;
      - vi. Funds not includable in gross income;
      - vii. Funds required under § 401(a)(9) of the IRC because the Eligible Member have attained age 70 1/2;
      - viii. One of a series of substantially equal periodic payments made at least annually for the Eligible Member's life;
      - ix. One of a series of substantially equal periodic payments made for 10 years or more;
      - x. After-tax contributions from any plan other than a 401(a) or 403(b) qualified plan;
- D. An Eligible Member who chooses to purchase Service Credit pursuant to this Section shall submit a Direct Rollover/Transfer Certification to Purchase Service Credit form that includes:
  - 1. The Eligible Member's full name;
  - 2. The last 4 digits of the Eligible Member's Social Security number;
  - 3. The Eligible Member's signature certifying that the Eligible Member understands the requirements, limitations, and entitlements for the rollover/transfer that is being used to purchase Service Credit, and has read and understands the Direct Rollover/Transfer Certification to Purchase Service Credit form and any accompanying instructions and information;
  - 4. The Authorized Representative's name and title;
  - 5. The Authorized Representative's telephone number; and
  - 6. Certification by the Authorized Representative's dated signature that:
    - a. The plan is either:
      - i. A qualified pension, profit sharing, or 401(k) plan described in IRC § 401(a), or a qualified annuity plan described in IRC § 403(a);
      - ii. A deferred compensation plan described in IRC § 457(b) maintained by a state of the United States, a political subdivision of a state of the United States, or an agency or instrumentality of a state of the United States;
      - iii. An annuity contract described in IRC § 403(b); or
      - iv. An IRA described in A.R.S. § 38-747(H)(3);
    - b. The rollover/transfer specified on the form from which the pre-tax funds are being rolled over or transferred is intended to satisfy the requirements of the applicable Section of the IRC;
    - c. The Authorized Representative is not aware of any plan provision or any other reason that would cause

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

the plan/IRA not to satisfy the applicable Section of the IRC; and

- d. The funds will be sent to the ASRS as a direct plan rollover, IRA rollover, or a Trustee-to-Trustee Transfer.
  - E. The Eligible Member shall contact the Plan Administrator to have the funds distributed and transferred to the ASRS. Unless the ASRS receives a check for the correct amount from the plan and all documents required by this Article by the due date specified by the method of payment the Eligible Member elected, the ASRS shall cancel the request to purchase Service Credit.
  - F. The Eligible Member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
  - G. If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the Eligible Member.
- B. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with the Eligible Member's anticipated termination date which cannot be more than six months from the date the ASRS issues the SP Invoice and must be at least Three Full Calendar Months after the date the Eligible Member elects and submits Termination Pay as a method of payment.
  - C. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with a Termination Pay Authorization for the Purchase of Service Credit form with the following information:
    1. The name of the Employer that will be submitting the Termination Pay to the ASRS;
    2. Whether the Eligible Member elects to use all Termination Pay or a specific amount of Termination Pay;
    3. Signature of the Eligible Member, certifying that the Eligible Member understands that:
      - a. The Eligible Member is required to continue working at least Three Full Calendar Months after the date the Eligible Member submits the Termination Pay Authorization for the Purchase of Service Credit form before Termination Pay may be used on a pre-tax basis;
      - b. If the Eligible Member terminates employment more than six months after the date on the SP Invoice, the Eligible Member may purchase the Service Credit at a newly calculated rate and possibly at a higher cost;
      - c. The terms elected in the Termination Pay Authorization for the Purchase of Service Credit form are binding and irrevocable;
      - d. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
      - e. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
      - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay, as provided in the Termination Pay Authorization for the Purchase of Service Credit form; and
      - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
      - h. If the Termination Pay exceeds the balance due on the SP Invoice, the ASRS will return the difference to the Eligible Member's Employer to be distributed to the Eligible Member;
      - i. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
      - j. The ASRS will send a notification to the Eligible Member's Employer two weeks prior to the Eligible Member's termination date, as indicated on the Termination Pay Authorization form, to notify the Employer that the Eligible Member's Termination Pay must be sent directly to the ASRS.
  - D. The ASRS shall not apply Termination Pay to an SP Invoice covered by an Irrevocable PDA in effect at the time of termination, unless the Eligible Member elected the Termination Pay pursuant to R2-8-513(D) at the time the member authorized the Irrevocable PDA.
  - E. If an Eligible Member elects to use Termination Pay to purchase Service Credit, the ASRS shall not apply any other form

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Citations to subsection (C)(3)(b) corrected in subsections (C)(3)(c)(ii) and (C)(3)(d) (Supp. 20-1).

**R2-8-515. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-516. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

**R2-8-517. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

**R2-8-518. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

**R2-8-519. Purchasing Service Credit by Termination Pay**

- A. To purchase Service Credit using Termination Pay, an Eligible Member shall elect to use Termination Pay by the date payment election is due.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

of payment to the Service Credit purchase until the ASRS receives the Termination Pay.

- F. Notwithstanding any other Section, if an Eligible Member dies prior to terminating employment, the ASRS shall not accept Termination Pay.
- G. If an Eligible Member Transfers Employment, the ASRS shall not accept Termination Pay from the Eligible Member's previous Employer.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA**

- A. If an Eligible Member terminates employment without transferring employment as specified in R2-8-513.01 while purchasing Service Credit by an Irrevocable PDA and requests return of retirement contributions pursuant to A.R.S. § 38-740, the ASRS shall return any principal payments made for the purchase of Service Credit including interest earned on those principal payments at the interest rate specified in R2-8-118(A), column 3.
- B. If an Eligible Member dies while purchasing Service Credit, the ASRS shall credit the Eligible Member's account with:
  - 1. The Service Credit for which the ASRS received payment pursuant to a PDA before the Eligible Member's death;
  - 2. The principal payments made by the Eligible Member; and
  - 3. Interest earned on payment through the date of distribution at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).
- C. If an Eligible Member dies while purchasing Service Credit, the ASRS shall not permit the survivor or an estate to purchase the remaining balance.
- D. The ASRS shall not transfer, disburse, or refund the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.
- E. The ASRS shall not credit a member's account with the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-521. Adjustment of Errors**

- A. If the ASRS determines an error has been made in the information provided by the member or in the calculations made by the ASRS, the ASRS shall make an adjustment to the member's account and return ineligible payments, if any.
- B. The ASRS shall notify the member in writing of any adjustments.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING****R2-8-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
2. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
3. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
4. "Substantive policy statement" means the same as in A.R.S. § 41-1001(22).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

**R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements**

Except on a state holiday, a person may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-603. Petition for Rulemaking**

- A. A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
  1. The name and current address of the person submitting the petition;
  2. An identification of the rule to be made or amended;
  3. The suggested language of the rule;
  4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
    - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
    - b. If applicable, statistical data with references to attached exhibits;
  5. The signature of the person submitting the petition; and
  6. The date the person signs the petition.
- B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the person within 60 days of receipt of the petition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement**

- A. A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the person alleges constitutes a rule shall include the following in the petition:
  1. The name and current address of the person submitting the petition,

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
  3. The signature of the person submitting the petition, and
  4. The date the person signs the petition.
- B.** The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C.** The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact**

- A.** A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the person submitting the objection;
  2. Identification of the rule;
  3. Either evidence that the actual economic, small business and consumer impact:
    - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
    - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
    - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  4. The signature of the person submitting the objection; and
  5. The date the person signs the objection.
- B.** The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-606. Oral Proceedings**

- A.** A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
  2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
  3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B.** The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, tran-

scripts, lists, speaker slips, and written comments received shall become part of the official record.

- C.** A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
  2. Provide a Request to Present Oral Comment form that includes space for:
    - a. The name of the person submitting the Request to Present Oral Comment form,
    - b. The entity the person represents, if applicable, and
    - c. The rule on which the person wishes to comment or about which the person has a question;
  3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
  4. Explain the background and general content of the proposed rulemaking;
  5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
  6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D.** A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-607. Petition for Delayed Effective Date**

- A.** A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
  2. Identification of the proposed rule;
  3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
  4. Reason why the public interest will not be harmed by the delayed effective date;
  5. Signature of the person submitting the petition; and
  6. Date the person signs the petition.
- B.** The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD****R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:
    - a. Whether the employee was covered under the Employer's 218 Agreement prior to July 24, 2014,
    - b. The number of hours the member worked for the Employer per pay period, and
    - c. The amount and type of compensation earned by the member within each pay period.
  3. "Eligible service" means employment with an Employer:
    - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
    - b. In which the member was Engaged to Work for an Employer.
  4. "Engaged to Work" means the same as in R2-8-1001.
  5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
  6. The member's hire date;
  7. Whether the member was Engaged to Work for the Employer;
  8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
  9. The dated signature of the Employer's authorized agent certifying:
    - a. All the dates and salary information is correct;
    - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
    - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
    - d. Acknowledgement the member will receive an invoice for their contributions owed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-702. General Information**

- A. The Employer shall pay the Employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not the member pays the member's portion of the contributions.
- B. The person who initiates the claim that contributions were not withheld for Eligible Service has the burden to prove a contribution error was made.
- C. The ASRS shall not waive payment of contributions or interest owed under this Article.
- D. If a member is not able to establish eligibility for purchasing service credit pursuant to this Article, the member may be eligible to purchase service pursuant to A.R.S. § 38-743 and Article 5 of this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-703. Employer's Discovery of Error**

If an Employer determines that any amount of contributions have not been withheld for a member for a period of Eligible Service, the Employer shall notify the ASRS by submitting through the Employer's secure ASRS account a Verification of Contributions Not Withheld form with the following information:

1. The member's full name;
2. The member's Social Security number;
3. The range of dates that any contribution was not withheld;
4. The member's position title during the date range listed in subsection (3);
5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
6. The member's hire date;
7. Whether the member was Engaged to Work for the Employer;
8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
9. The dated signature of the Employer's authorized agent certifying:
  - a. All the dates and salary information is correct;
  - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
  - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
  - d. Acknowledgement the member will receive an invoice for their contributions owed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-704. Member's Discovery of Error**

- A. If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:
  1. Notify the member's Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
  2. Submit to the ASRS a Contributions Not Withheld Request form through the member's secure ASRS account with the following:
    - a. The name of the Employer that should have remitted contributions;
    - b. The range of dates that any contribution was not withheld;
    - c. The member's position title during the date range listed in subsection (b);
    - d. Whether the member was Engaged to Work for the Employer; and
    - e. Dated signature of the member certifying the member understands:
      - i. The ASRS will be providing the member's Social Security number to the Employer for verification; and
      - ii. If the member's Employer cannot verify this request, it is the member's responsibility to provide Documentation of Eligible Service.
- B. If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account, along with the information identified in R2-8-703.
- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

believes supports the allegation that contributions should have been withheld.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-705. ASRS' Discovery of Error**

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that all contributions have not been withheld for a member for a period of Eligible Service, the ASRS shall notify the Employer in writing and shall request the Employer submit through the Employer's secure ASRS account a Verification of Contributions Not Withheld form pursuant to R2-8-703.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-706. Determination of Contributions Not Withheld**

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B. Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
  1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
  2. The employee participates in:
    - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
    - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C. Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D. If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E. The ASRS shall provide to each, the Employer and the member, an invoice with the following:
  1. The amount of Eligible Service for which contributions were not withheld,
  2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
  3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,
  4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
  5. The dollar amount of contributions to be paid to the ASRS by the member.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-707. Submission of Payment**

- A. Within 90 days from the date on the statement identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within 90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- B. The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).
- C. If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D. A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-708. Expired****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

**R2-8-709. Repealed****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**ARTICLE 8. RECOVERY OF OVERPAYMENTS****R2-8-801. Definitions**

For purposes of this article, the following definitions apply, unless specified otherwise:

1. "DRO" means the same as in R2-8-120.
2. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
3. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
4. "LTD benefit" means the same as in R2-8-301

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

5. "Overpayment" means:
- Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
  - Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount**

- A.** The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
- Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9); and
  - Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9).
- B.** A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.
- C.** Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the estimated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.
- D.** If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).
- E.** Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:
- Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount, or
  - Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.
- F.** If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-803. Reimbursement of Overpayments**

- A.** Upon the ASRS discovering that it has made an overpayment to a member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B.** A person who reimburses the ASRS for an overpayment shall do so by remitting a check, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C.** If the ASRS is unable to collect the amount of an overpayment by reducing future payments to members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.
- D.** A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-804. Collection of Overpayments from Forfeiture**

- A.** Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).
- B.** The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:
- Pursue collection of any remaining overpayment amount pursuant to this Article; and
  - Distribute the remaining refund amount to the member pursuant to R2-8-115.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-805. Collection of Overpayments from Retirement Benefit**

- A.** Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B.** Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:
- If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than \$5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;
  - If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of any overpayment to no less than \$5.00;
  - If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity dis-

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

bursement plus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than \$5.00 and pursue collection pursuant to subsection (C).

- C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpayments which have not been reimbursed or collected pursuant to this Article:
1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.
  2. If the amount of the overpayment cannot be collected pursuant to subsection (C)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.
- D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-806. Collection of Overpayments from Survivor Benefit**

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS shall reduce the necessary person's amount of benefits pursuant to subsection (C).
- C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.
- D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.
- E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-807. Collection of Overpayments from LTD Benefit**

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any over-

payment the member received from the ASRS and has not reimbursed pursuant to this Section.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-808. Collection of Overpayments by the Attorney General**

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-809. Collection of Overpayments by the Arizona Department of Revenue**

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-810. Collection of Overpayments by Garnishment or Levy**

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this article by garnishing wages and/or placing a levy on the appropriate person's bank account.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**ARTICLE 9. COMPENSATION****R2-8-901. Definitions**

"Services rendered" means the duties which a member performs for an Employer as required by the member's employment with the Employer.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-902. Remitting Contributions**

Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer's secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this Section.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-903. Accrual of Credited Service**

- A. A member shall accrue service credits pursuant A.R.S. § 38-739 for each month in which the Employer's pay period ends

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902.

- B.** Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-904. Compensation from An Additional Employer**

- A.** For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:
1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;
  2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;
  3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and
  4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member's service year.
- B.** For purposes of calculating average monthly compensation according to A.R.S. § 38-711, compensation includes the pay identified in subsection (A).
- C.** Notwithstanding any other subsection, for a member whose membership began after December 31, 2009, compensation includes pay the member receives from an additional Employer if the member meets membership pursuant to A.R.S. § 38-711 with the additional Employer.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-905. Expired****Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

**ARTICLE 10. MEMBERSHIP****R2-8-1001. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 Agreement" means the same as in R2-8-701.
2. "218 Resolution" means written authorization for a potential Employer to provide Social Security and Medicare or Medicare-only coverage to employees under the provisions of § 218 of the Social Security Act.

3. "Acceptable Documentation" means the same as in R2-8-115.
4. "Designated Employer Administrator" means an individual designated by the Employer and who has authorized access to the Employer's secure ASRS account in order to fulfill the Employer's responsibilities.
5. "Engaged To Work" means the earlier of:
  - a. The date the employee begins rendering services for the Employer and the Employer intends the employee to work for at least 20 hours a week for at least 20 weeks in a fiscal year or;
  - b. The week an employee renders services to an Employer for at least 20 hours a week for at least 20 weeks in a fiscal year.
6. "Leasing An Employee From A Third Party" means the same as "Leased from a third party" in R2-8-116.
7. "State Social Security Administrator" means the ASRS staff designated by the Board to approve 218 Agreements.
8. "Week" means 12:00 a.m. on Sunday through 11:59 p.m. on the following Saturday.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1002. Employee Membership**

- A.** For purposes of active member eligibility, an employee of an Employer becomes a member of the ASRS pursuant to A.R.S. § 38-711(23) when the employee is Engaged To Work for the Employer.
- B.** If the Employer does not provide an accurate date for which an employee was Engaged To Work pursuant to subsection (A), the ASRS shall determine that an employee's membership effective date will be the member's hire date, if provided by the Employer and within 30 days of the first pay period end date after the hire date, for which the Employer was required to submit contributions.
- C.** If the Employer does not provide a hire date pursuant to subsection (B), the effective date is the first pay period end date of contributions received for that member.
- D.** Unless a member terminates employment or retires from the ASRS, for purposes of determining active member eligibility, a member will continue to be an active member for the remainder of a fiscal year in which the employee met the requirements to be an active member in the ASRS with that Employer pursuant to A.R.S. § 38-711.
- E.** Within 30 days of employment, an employee who is eligible for ASRS membership pursuant to A.R.S. § 38-711(23) shall create a secure ASRS account and submit to the ASRS through the employee's secure ASRS account the following information:
1. The Employee's full name;
  2. The Employee's Social Security number;
  3. The Employee's date of birth;
  4. The Employee's gender;
  5. The Employee's marital status;
  6. The Employee's primary phone number;
  7. The Employee's personal email address;
  8. The Employee's current mailing address; and
  9. The Employee's designated beneficiary.
- F.** Within 30 days of a change in the member's name, the member shall submit to the ASRS through the member's secure ASRS account a Change of Name form that contains:
1. The member's full name that is on file with the ASRS;
  2. The member's Social Security number;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

3. The member's current mailing address;
  4. The member's date of birth;
  5. The member's personal email address;
  6. The member's primary phone number;
  7. The member's gender;
  8. The member's marital status;
  9. The member's retired, active, inactive, or LTD status with the ASRS;
  10. The member's new full name;
  11. The type of legal document establishing the member's new name;
  12. A copy of the legal document establishing the member's new name; and
  13. The member's dated signature.
- G.** Within 30 days of a change in the member's contact information, the member shall notify the ASRS of the change.
- H.** If an employee of an Employer meets the requirements of A.R.S. § 38-727(A)(8), the employee may elect to not participate in the ASRS.
- I.** Within 30 days after employment, an Employer whose employee is 65 years of age or older as of the date of employment and who has elected not to participate in the ASRS pursuant to subsection (H), shall submit to the ASRS through the Employer's secure ASRS account a 65+ Membership Waiver form that contains:
1. The employee's full name;
  2. The employee's Social Security number;
  3. The employee's current mailing address;
  4. The employee's date of birth;
  5. The employee's dated signature acknowledging the following statements:
    - a. The employee is electing to waive any rights to ASRS membership and the employee will not be eligible for any retirement, disability, or health insurance benefits offered by the ASRS;
    - b. The employee is not a member of the ASRS as of the date of employment; and
    - c. The employee understands that this election is irrevocable for the remainder of the employee's employment with that Employer and the time the employee works under this election is not eligible for purchase in the ASRS;
  6. The Employer's name;
  7. The date employee's employment began; and
  8. The name and dated signature of the Employer's representative.
- J.** A corrected and completed 65+ Membership Waiver form must be resubmitted to the ASRS pursuant to subsection (I) within 14 days of the date the ASRS notifies the employee that the 65+ Membership Waiver form is incorrect or incomplete.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1003. Charter School Employer Membership**

- A.** Pursuant to A.R.S. § 15-187(C), a charter school in Arizona is considered a political subdivision that is eligible to participate in the ASRS if the charter school is sponsored by:
1. A state university;
  2. A community college district;
  3. A group of community college districts;
  4. The state board of education; or
  5. The state board for charter schools.
- B.** In order to participate as an Employer in the ASRS, a charter school shall notify the ASRS in writing of the charter school's intent to join the ASRS and provide:

1. A copy of the current and active Charter Contract, including any amendments, which is approved by the entity sponsoring the charter school pursuant to subsection (A);
  2. Documentation showing the name and location of all schools authorized by the Charter Contract identified in subsection (B)(1); and
  3. Documentation showing the charter school board's approval to pursue ASRS membership and complete ASRS requirements for membership.
- C.** Upon receipt of the information contained in subsection (B), the ASRS shall determine if the charter school is eligible to participate in the ASRS. If the charter school is not eligible to participate in the ASRS, the ASRS shall send the charter school a notice of ineligibility. If the charter school is eligible to participate, the ASRS shall provide the charter school a Potential New Employer Letter.
- D.** In order to participate as an Employer in the ASRS, an eligible charter school shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
1. The current retirement plan or a statement signed by the designated authorized agent for the charter school acknowledging there is no current retirement plan.
  2. Two ASRS Agreements showing:
    - a. The legal name and current mailing address of the charter school as sponsored pursuant to subsection (A);
    - b. What amount of prior service the charter school shall purchase for employees pursuant to R2-8-1006;
    - c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
    - d. The name, title, email address, and telephone number of the designated authorized agent for the charter school;
    - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
    - f. The ASRS Agreement is binding and irrevocable;
    - g. The effective date of the ASRS Agreement;
    - h. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
    - i. The dated signature of the designated authorized agent for the charter school.
  3. Two ASRS Resolutions showing:
    - a. The legal name of the charter school as sponsored pursuant to subsection (A);
    - b. The charter school is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
    - c. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
    - d. The designated authorized agent for the charter school;
    - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- f. The dated and notarized signature of the designated authorized agent.
- 4. Two 218 Agreements either electing or declining coverage. If the charter school is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
- 5. Two 218 Resolutions, if the charter school is electing coverage pursuant to subsection (D)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- E. Upon receipt of Acceptable Documentation identified in subsection (D), the ASRS may approve the charter school's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (D) to the charter school.
- F. Any charter school that is established under the charter contract of a participating charter school shall participate in the ASRS.
- c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
- d. The name, title, email address, and telephone number of the designated authorized agent for the political subdivision or political subdivision entity;
- e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
- f. The ASRS Agreement is binding and irrevocable;
- g. The effective date of the ASRS Agreement;
- h. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
- i. The dated signature of the designated authorized agent for the political subdivision or political subdivision entity.
- 3. Two ASRS Resolutions showing:
  - a. The legal name of the political subdivision or political subdivision entity;
  - b. The political subdivision or political subdivision entity is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
  - c. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
  - d. The designated authorized agent for the political subdivision or political subdivision entity;
  - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
  - f. The dated and notarized signature of the designated authorized agent.
- 4. Two 218 Agreements either electing or declining coverage. If the political subdivision or political subdivision entity is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
- 5. Two 218 Resolutions, if the political subdivision or political subdivision entity is electing coverage pursuant to subsection (C)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- D. Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership**

- A. A political subdivision or political subdivision entity, other than a charter school, may be eligible to participate in the ASRS pursuant to A.R.S. §§ 38-711 and 38-729 if it notifies the ASRS in writing of the political subdivision's or political subdivision entity's intent to join the ASRS and provides to the ASRS:
  - 1. A copy of the current legal authority establishing the political subdivision or political subdivision entity;
  - 2. Documentation showing the name and location of the political subdivision or political subdivision entity; and
  - 3. Documentation showing the political subdivision or political subdivision entity has taken the necessary legal action to be eligible to participate pursuant to A.R.S. § 38-729.
- B. Upon receipt of the information contained in subsection (C), the ASRS shall determine if the political subdivision or political subdivision entity is eligible to participate in the ASRS. If the political subdivision or political subdivision entity is not eligible to participate in the ASRS, the ASRS shall send the political subdivision or political subdivision entity a notice of ineligibility. If the political subdivision or political subdivision entity is eligible to participate, the ASRS shall provide the political subdivision or political subdivision entity a Potential New Employer Letter.
- C. In order to participate as an Employer in the ASRS, an eligible political subdivision or political subdivision entity shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
  - 1. The current retirement plan or a statement signed by the designated authorized agent for the political subdivision or political subdivision entity acknowledging there is no current retirement plan.
  - 2. Two ASRS Agreements showing:
    - a. The legal name and current mailing address of the political subdivision or political subdivision entity;
    - b. What amount of prior service the political subdivision or political subdivision entity shall purchase for employees pursuant to R2-8-1006;
- D. Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1005. Employer Reporting**

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- A. An Employer shall submit contribution information and contribution payments pursuant to A.R.S. § 38-735, through the Employer's secure ASRS account.
- B. Within 14 days of receiving the information contained in subsection R2-8-1002(E)(1) through (E)(3), the Employer shall:
1. Verify the information the employee provided;
  2. Confirm the employee meets membership requirements pursuant to A.R.S. § 38-711; and
  3. Submit the verified information to the ASRS through the Employer's secure ASRS account.
- C. For an Employer whose employee elects to participate in an Optional Retirement Plan in lieu of the ASRS pursuant to A.R.S. §15-1628, within 30 days of electing to participate in an Optional Retirement Plan, the Employer shall submit to the ASRS through the Employer's secure ASRS account the:
1. Employee's full name;
  2. Employee's Social Security number;
  3. Date of the employee's employment; and
  4. Date of the employee's Optional Retirement Plan election.
- D. For an Employer who has submitted information pursuant to subsection (C), within 30 days of that employee terminating employment with that Employer, the Employer shall notify the ASRS through the Employer's secure ASRS account of the employee's termination date.
- E. Within 14 days before the effective date of joining the ASRS, an Employer shall submit an initial online authorization and designation form in writing to the ASRS with the following information:
1. The Employer's name;
  2. The following information for the person authorized by the Employer to approve the Employer's Designated Employer Administrator:
    - a. The person's full name;
    - b. The person's title;
    - c. The person's phone number;
    - d. The person's email address;
    - e. The person's dated signature affirming that person has the authority to approve the Employer's Designated Employer Administrator;
  3. The full name of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  4. The title of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  5. The phone number of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  6. The email address of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  7. The dated signature of the individual the Employer is designating as the Employer's Designated Employer Administrator.
- F. An Employer's Designated Employer Administrator shall establish a new Employer's Designated Employer Administrator as needed through the Employer's secure ASRS account.
- G. Within 30 days of an Employer no longer having an Employer's Designated Employer Administrator, the Employer shall submit in writing an initial online authorization and designation form pursuant to subsection (E).
- H. Within 30 days of change in the Employer's address, the Employer shall notify the ASRS of the change through the Employer's secure ASRS account.
- I. Within 10 days of any change in the name or ownership of the Employer, the Employer shall provide written notice of the change to the ASRS through the Employer's secure ASRS account by providing the Employer's previous account information and the changes to that information.
- J. Within 30 days of any change in the character of an Employer's organizational structure, the Employer shall send to the ASRS through the Employer's secure ASRS account, written notice of the previous organizational structure and the effective changes to the Employer's organizational structure.
- K. Within 30 days of Leasing An Employee From A Third Party, an Employer shall submit the following information:
1. The employee's full name;
  2. The number of hours per week the employee works for the Employer;
  3. The title of the employee's position;
  4. A copy of the agreement showing the Employer Leasing An Employee From A Third Party; and
  5. Whether the employee is retired from the ASRS.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1006. Prior Service Purchase Cost for New Employers**

- A. Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B. The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service credit pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
1. The employee's full name;
  2. The employee's date of birth;
  3. The employee's Social Security number;
  4. The employee's current salary; and
  5. The date the employee began employment with the potential Employer.
- C. An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
1. Member's full name;
  2. Member's date of birth;
  3. Member's Social Security number;
  4. Member's date of employment;
  5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
  6. Member's current salary as of the effective date of joining the ASRS; and
  7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D. The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E. An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

F. If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**ARTICLE 11. TRANSFER OF SERVICE CREDIT****R2-8-1101. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
  - a. Member's Current Years of Credited Service;
  - b. Member's age as of the date the Member submits to the ASRS a request to transfer service credit pursuant to this Article; and
  - c. Member's most recent annual compensation.
2. "Current years of credited service" means:
  - a. For Transfer In Service, the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid; and
  - b. For transferring service credit to the Other Retirement Plan, the amount of credited service a member has earned or purchased, but does not include service credit for which the member has not yet paid.
3. "Irrevocable PDA" means the same as in R2-8-501.
4. "Funded Actuarial Present Value" means the Actuarial Present Value reduced to the extent funded on market value basis as of the most recent actuarial evaluation of the ASRS.
5. "Member's accumulated contribution account balance" means the sum of all the member's retirement contributions and any principal payments made for:
  - a. The purchase of service credit;
  - b. Contributions not withheld; and
  - c. Previous transfers of service credit.
6. "Other retirement plan" means the state retirement plans specified in A.R.S. § 38-921, other than the ASRS, or a retirement plan of a charter city as specified in A.R.S. § 38-730.
7. "Other Retirement Plan's cost" means the amount determined by the ASRS pursuant to R2-8-1102(D).
8. "Other public service" means the same as in R2-8-501.
9. "Transfer in service" means credited service with the Other Retirement Plan that a member is eligible to transfer to the ASRS pursuant to A.R.S. §§ 38-730 and 38-921.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit**

- A. A member who is eligible to Transfer In Service credit, may request to transfer service credit by providing a Transfer In form to the ASRS with the following:
1. The name of the Other Retirement Plan;

2. The date the member either terminated employment with an employer of the Other Retirement Plan or ceased to participate in the Other Retirement Plan;
3. The date the member began employment with the employer through which the member was participating in the Other Retirement Plan;
4. The number of years the member participated in the Other Retirement Plan;
5. Acknowledgement the member agrees that:
  - a. Knowingly making a false statement or falsifying or permitting falsification of any record of the ASRS with an intent to defraud ASRS is a Class 6 felony, pursuant to A.R.S. § 38-793; and
  - b. The Transfer In Service credit transaction is subject to audit and if any errors are discovered, the ASRS shall adjust a member's account, or if the member is already retired, adjustments to the member's account may affect the member's retirement benefit.

- B. Upon receipt of the information specified in subsection (A), the ASRS shall submit the information to the Other Retirement Plan and request:
1. The Other Retirement Plan's Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922;
  2. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
  3. The amount of service credit the member has accumulated in the Other Retirement Plan; and
  4. The start date and end date for the member's participation in the Other Retirement Plan.
- C. Upon receipt of the information specified in subsection (B), the ASRS shall calculate the Actuarial Present Value as specified in R2-8-506 necessary to transfer full service credit to the ASRS.
- D. The ASRS shall calculate the Other Retirement Plan's Cost as follows:
1. If the ASRS Actuarial Present Value is greater than the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
    - a. The Other Retirement Plan's Funded Actuarial Present Value; or
    - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
  2. If the ASRS Actuarial Present Value is less than or equal to the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
    - a. The ASRS Actuarial Present Value; or
    - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan.
- E. The ASRS shall compare the Other Retirement Plan's Cost to the ASRS Actuarial Present Value calculated pursuant to subsection (C) and:
1. If the Other Retirement Plan's Cost is less than the ASRS Actuarial Present Value, then the member may elect to transfer service credit to the ASRS and:
    - a. Pay the difference between the Other Retirement Plan's Cost and the ASRS Actuarial Present Value; or
    - b. Accept a proportionately reduced amount of service credit;
  2. If the Other Retirement Plan's Cost is greater than or equal to the ASRS Actuarial Present Value, then the member may elect to transfer the service to the ASRS pursuant to subsection (F).
- F. Upon completion of the comparison specified in subsections (D) and (E), the ASRS shall send the member a transfer in

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

invoice notifying the member of the member's options to complete the transfer of service credit through the member's secure ASRS account.

- G. The member may elect to complete a transfer of service credit pursuant to this Section by submitting the member's election by the election due date specified on the transfer in invoice.
- H. Upon receipt of the member's election to complete a transfer of service credit, the ASRS shall send the transfer in invoice to the Other Retirement Plan and the Other Retirement Plan shall make payment to the ASRS by submitting a check made payable to the ASRS for the Other Retirement Plan's Cost specified on the transfer in invoice by the payment due date specified on the transfer in invoice.
- I. If a member elects to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E), the member shall elect the method of payment by the payment due date specified on the transfer in invoice.
- J. A member may elect to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E) by any one or more methods specified in R2-8-512, R2-8-513, R2-8-514, or R2-8-519.
- K. For a member who elects to accept a proportionately reduced amount of service pursuant to subsection (E)(1)(b), the ASRS shall calculate the proportionately reduced amount of service credit based on the member's service credits in the Other Retirement Plan multiplied by the ratio of the Other Retirement Plan's Cost to the ASRS Actuarial Present Value.
- L. The member shall submit payment to transfer service credit pursuant to this Section by the payment due date specified on the transfer in invoice.
- M. If the member does not submit payment for the total difference in the calculations pursuant to R2-8-1102(E) by the payment due date specified on the transfer in invoice, the member may be eligible to purchase the remaining service credit as Other Public Service, and the member is not eligible to purchase the remaining service credit based on the cost specified in the transfer in invoice.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-1103. Transferring Service to Other Retirement Plans**

- A. Upon receipt of a request to transfer a member's service credit from the ASRS to the Other Retirement Plan, the ASRS shall calculate:
  1. The ASRS Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922; and
  2. The Member's Accumulated Contribution Account Balance in the ASRS.
- B. Upon completing the calculations specified in subsection (A), the ASRS shall submit the calculations and member information to the Other Retirement Plan with a due date for the Other Retirement Plan to submit a fund request to the ASRS pursuant to subsection (C).

- C. If a member elects to transfer service credit to the Other Retirement Plan, the member shall ensure that the Other Retirement Plan submits a fund request on the Other Retirement Plan's letterhead by the due date specified in subsection (B) to the ASRS with the following information:
  1. The member's full name;
  2. The last four digits of the member's Social Security number;
  3. The name of the Other Retirement Plan; and
  4. The Actuarial Present Value necessary to transfer full service credit to the Other Retirement Plan.
- D. Upon receipt of the information specified in subsection (C), the ASRS shall compare the calculations specified in subsection (A) to the Other Retirement Plan's Actuarial Present Value specified in subsection (C) and transfer funds as follows:
  1. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is greater than the ASRS Funded Actuarial Present Value specified in subsection (A), then the ASRS shall transfer the greater of:
    - a. The ASRS Funded Actuarial Present Value specified in subsection (A); or
    - b. The Member's Accumulated Contribution Account Balance in the ASRS.
  2. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is less than or equal to the ASRS Funded Actuarial Present Value, then the ASRS shall transfer the greater of:
    - a. The Other Retirement Plan's Actuarial Present Value specified in subsection (C); or
    - b. The Member's Accumulated Contribution Account Balance in the ASRS.
- E. Transferring service credit to the Other Retirement Plan pursuant to this Section constitutes a withdrawal from ASRS membership and results in a forfeiture of all other benefits under ASRS.
- F. Notwithstanding subsection (E), pursuant to A.R.S. § 38-750, a transferred employee who continues an Irrevocable PDA after transferring service credit to the Other Retirement Plan may be eligible to:
  1. Transfer service credit associated with the remaining balance of the Irrevocable PDA for which the transferred employee paid for the purchase of service credit plus interest at the Assumed Actuarial Investment Earnings Rate pursuant to A.R.S. § 38-922, not including any administrative interest charge the transferred employee paid pursuant to an Irrevocable PDA; or
  2. Receive a return of contributions plus interest as specified in R2-8-118(A), column 3, pursuant to A.R.S. § 38-740.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

### 38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means:

(a) For members whose membership began on or before December 31, 2019, the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(i) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(ii) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(iii) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(iv) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(v) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

(b) For a member whose membership began on or after January 1, 2020, only gross wages paid to a member by the employer for services rendered to the employer during the period considered as credited service, including amounts reported as wages and tips and other compensation on the member's federal form W-2 wage and tax statement, including pretax deductions, except for the following:

- (i) Payments made for accrued leave that is not being used to replace regular work hours, whether paid in a lump sum or in installments.
  - (ii) Payments made on termination from employment, whether paid in a lump sum or in installments or as a bonus or an incentive for termination or retirement.
  - (iii) Employer-paid contributions that are made to, and any distributions from, plans, programs or arrangements qualified under section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.
  - (iv) Payments for allowances.
  - (v) Reimbursements for employee business expenses or employee personal expenses.
  - (vi) Employer-paid contributions for coverage under, or distributions from, an accident, health or life insurance plan, program or arrangement.
  - (vii) Payments made in lieu of any employer-paid insurance coverage.
  - (viii) Workers' compensation, unemployment compensation payments and disability payments.
  - (ix) Merit awards pursuant to section 38-613.
  - (x) Payments paid pursuant to a court order or settlement agreement to satisfy a claim even though the amount of the payment is based on previous salary or wage levels, except if the court order or settlement agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time.
  - (xi) Payments made in the form of goods or services in lieu of gross wages.
  - (xii) Any other payment that is not reported as wages and tips and other compensation on the member's federal W-2 wage and tax statement for actual services rendered.
  - (xiii) Payments in excess of the section 415 of the internal revenue code limits established in section 38-746.
  - (xiv) Payments for any other employment benefit.
  - (xv) Payments for which employer or employee contributions have not been paid.
8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.
9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.
10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.
18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.
19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.
20. "Late retirement" means retirement after normal retirement.
21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.
22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.
23. "Member":
- (a) Means any employee of an employer on the effective date.
  - (b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.
  - (c) Means any person receiving a benefit under ASRS.
  - (d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.
  - (e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.
  - (f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:
    - (i) Is not otherwise an employee of an employer.
    - (ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.
    - (iii) Performs services under the primary direction or control of the employer.
24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government-related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

### 38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and any member under articles 2.1 and 7 of this chapter and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.
2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.
3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.
4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.
2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.
3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

**38-783. Retired members; dependents; health insurance; premium payment; separate account; definitions**

A. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the single coverage premium of any health and accident insurance for each retired member, contingent annuitant or member with a disability of ASRS if the member elects to participate in the coverage provided by ASRS or section 38-651.01 or elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer. A contingent annuitant must be receiving a monthly retirement benefit from ASRS in order to obtain any premium payment provided by this section. The board shall pay:

1. Up to \$150 per month for a member of ASRS who is not eligible for medicare if the retired member or member with a disability has ten or more years of credited service.
2. Up to \$100 per month for each member of ASRS who is eligible for medicare if the retired member or member with a disability has ten or more years of credited service.

B. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the family coverage premium of any health and accident insurance for a retired member, contingent

annuitant or member with a disability of ASRS who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. If a member of ASRS and the member's spouse are both either retired or have disabilities under ASRS and apply for family coverage, the member who elects family coverage is entitled to receive the payments under this section as if they were both applying under a single coverage premium unless the payment under this section for family coverage is greater. Payment under this subsection is in the following amounts:

1. Up to \$260 per month if the member of ASRS and one or more dependents are not eligible for medicare.

2. Up to \$170 per month if the member of ASRS and one or more dependents are eligible for medicare.

3. Up to \$215 per month if either:

(a) The member of ASRS is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The member of ASRS is eligible for medicare and one or more dependents are not eligible for medicare.

C. In addition each retired member, contingent annuitant or member with a disability of ASRS with less than ten years of credited service and a dependent of such a retired member, contingent annuitant or member with a disability who elects to participate in the coverage provided by ASRS or section 38-651.01 or who elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 9.0 to 9.9 years of credited service, ninety percent.

2. 8.0 to 8.9 years of credited service, eighty percent.

3. 7.0 to 7.9 years of credited service, seventy percent.

4. 6.0 to 6.9 years of credited service, sixty percent.

5. 5.0 to 5.9 years of credited service, fifty percent.

6. Those with less than five years of credited service do not qualify for the benefit.

D. The board shall not pay more than the amount prescribed in this section for a member of ASRS.

E. Notwithstanding subsections A, B and C of this section, for a member who retires on or after August 2, 2012, the board shall not make a payment under this section to a retired member, contingent annuitant or member with a disability who is enrolled in an employer's active employee group health and accident insurance program either as the insured or as a dependent, except that if the retired member, contingent annuitant or member with a disability is enrolled as a dependent and the premium paid to the employer's active employee group health and accident insurance program is

not subsidized by the employer, the retired member, contingent annuitant or member with a disability is entitled to receive the amount provided in subsection A of this section.

F. The board shall establish a separate account that consists of the benefits provided by this section. The board shall not use or divert any part of the corpus or income of the account for any purpose other than the provision of and the cost of administering the benefits under this section or the self-insurance program pursuant to section 38-782 unless the liabilities of ASRS to provide the benefits are satisfied. If the liabilities of ASRS to provide the benefits described in this section and section 38-782 are satisfied, the board shall return any amount remaining in the account to the employer.

G. Payment of the benefits provided by this section is subject to the following conditions:

1. The payment of the benefits is subordinate to the payment of retirement benefits payable by ASRS.
2. The total of contributions for the benefits and actual contributions for life insurance protection, if any, shall not exceed twenty-five percent of the total actual employer and employee contributions to ASRS, less contributions to fund past service credits, after the day the account is established.
3. The board shall deposit the benefits provided by this section in the account.
4. The contributions by the employer to the account shall be reasonable and ascertainable.

H. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 1 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced to the retiring member for life. The amount of the optional premium benefit payment shall be the actuarial equivalent of the premium benefit payment to which the retired member would otherwise be entitled. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board as follows:

- (a) If the retired member names a different contingent annuitant, the optional premium benefit payment shall be adjusted to the actuarial equivalent of the original premium benefit payment based on the age of the new contingent annuitant. The adjustment shall include all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the retired member's date of retirement. Payment of this adjusted premium benefit payment shall continue under the provisions of the optional premium benefit payment previously elected by the retired member. A retired member cannot name a different contingent annuitant if the retired member has at any time rescinded the optional form of health and accident insurance premium benefit payment.

- (b) If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall

continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

I. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 2 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced with payments for five, ten or fifteen years that are not dependent on the continued lifetime of the retired member but whose payments continue for the retired member's lifetime beyond the five, ten or fifteen year period. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board. If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

J. If, at the time of retirement, a retiring member does not elect to receive a reduced premium benefit payment pursuant to subsection H or I of this section, the retired member's contingent annuitant is not eligible at any time for the optional premium benefit payment.

K. If a member who is eligible for benefits pursuant to this section forfeits the member's interest in the account before the termination of ASRS, an amount equal to the amount of the forfeiture shall be applied as soon as possible to reduce employer contributions to fund the benefits provided by this section.

L. A contingent annuitant is not eligible for any premium benefit payment if the contingent annuitant was not enrolled in an eligible health and accident insurance plan at the time of the retired member's death or if the contingent annuitant is not the dependent beneficiary or insured surviving dependent as provided in section 38-782.

M. For the purposes of this section:

1. "Account" means the separate account established pursuant to subsection F of this section.
2. "Credited service" includes prior service.
3. "Prior service" means service for this state or a political subdivision of this state before membership in the defined contribution program administered by ASRS.
4. "Subsidized" means a portion of the total premium is paid by the employer, but does not necessarily mean a plan in which the employer uses blended rates to determine the total premium.

### 38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be

excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means:

(a) For members whose membership began on or before December 31, 2019, the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(i) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(ii) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(iii) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(iv) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(v) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

(b) For a member whose membership began on or after January 1, 2020, only gross wages paid to a member by the employer for services rendered to the employer during the period considered as credited service, including amounts reported as wages and tips and other compensation on the member's federal form W-2 wage and tax statement, including pretax deductions, except for the following:

(i) Payments made for accrued leave that is not being used to replace regular work hours, whether paid in a lump sum or in installments.

(ii) Payments made on termination from employment, whether paid in a lump sum or in installments or as a bonus or an incentive for termination or retirement.

(iii) Employer-paid contributions that are made to, and any distributions from, plans, programs or arrangements qualified under section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.

(iv) Payments for allowances.

(v) Reimbursements for employee business expenses or employee personal expenses.

(vi) Employer-paid contributions for coverage under, or distributions from, an accident, health or life insurance plan, program or arrangement.

(vii) Payments made in lieu of any employer-paid insurance coverage.

(viii) Workers' compensation, unemployment compensation payments and disability payments.

(ix) Merit awards pursuant to section 38-613.

(x) Payments paid pursuant to a court order or settlement agreement to satisfy a claim even though the amount of the payment is based on previous salary or wage levels, except if the court order or settlement agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time.

(xi) Payments made in the form of goods or services in lieu of gross wages.

(xii) Any other payment that is not reported as wages and tips and other compensation on the member's federal W-2 wage and tax statement for actual services rendered.

(xiii) Payments in excess of the section 415 of the internal revenue code limits established in section 38-746.

(xiv) Payments for any other employment benefit.

(xv) Payments for which employer or employee contributions have not been paid.

8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.

9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.

10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the

date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.

18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.

19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.

20. "Late retirement" means retirement after normal retirement.

21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.

22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.

23. "Member":

(a) Means any employee of an employer on the effective date.

(b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

(c) Means any person receiving a benefit under ASRS.

(d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.

(e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.

(f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:

(i) Is not otherwise an employee of an employer.

(ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.

(iii) Performs services under the primary direction or control of the employer.

24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal

year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government-related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

[41-1092.01. Office of administrative hearings; director; powers and duties; fund](#)

A. An office of administrative hearings is established.

B. The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.

C. The director shall:

1. Serve as the chief administrative law judge of the office.

2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.

3. Subject to chapter 4, article 4 of this title, hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.

4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.

5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act. The director shall provide a copy of the report to the secretary of state.

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.

7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.

8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives and provide a copy of this report to the secretary of state by December 1 for the prior fiscal year:

(a) The number of administrative law judge decisions rejected or modified by agency heads.

(b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.

(c) By agency, the number and type of violations of section 41-1009.

10. Schedule hearings pursuant to section 41-1092.05 on the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.

D. The director shall not require legal representation to appear before an administrative law judge.

E. Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings. All other agencies shall contract for services and personnel of the office to conduct administrative hearings.

F. An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.

G. Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.

H. The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:

1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in

the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

I. If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges. These temporary administrative law judges are not employees of this state.

J. The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article. The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties. Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision. For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.

K. The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.

L. The office shall receive complaints against a county, a local government as defined in section 9-1401 or a video service provider as defined in section 9-1401 or 11-1901 and shall comply with the duties imposed on the office pursuant to title 9, chapter 13 for complaints involving local governments and title 11, chapter 14 for complaints involving counties.

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.
8. The department of transportation, except as provided in title 28, chapter 30, article 2.
9. The department of economic security except as provided in section 46-458.

10. The department of revenue regarding:

(a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to either:

(a) Applications for issuance or renewal of a certificate and discipline of certificate holders and noncertificated persons pursuant to sections 15-203, 15-505, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

(b) The Arizona empowerment scholarship account program pursuant to title 15, chapter 19.

14. The board of fingerprinting.

15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

**41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability**

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

**41-1092.04. Service of documents**

Unless otherwise provided in this article, every notice or decision under this article shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the agency and every other party to the action to the party's last address of record with the agency. Each party shall inform the agency and the office of any change of address within five days of the change.

41-1092.05. Scheduling of hearings; prehearing conferences

A. Except as provided in subsections B and C, hearings for:

1. Appealable agency actions shall be held within sixty days after the notice of appeal is filed.
2. Contested cases shall be held within sixty days after the agency's request for a hearing.

B. Hearings for appealable agency actions of or contested cases with self-supporting regulatory boards that meet quarterly or less frequently shall be held at the next meeting of the board after the board receives the written decision of an administrative law judge or the issuance of the notice of hearing, except that:

1. If the decision of the administrative law judge is received or the notice of hearing is issued within thirty days before the board meets, the hearing shall be held at the following meeting of the board.
2. If good cause is shown, the hearing may be held at a later meeting of the board.

C. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.

D. The agency shall prepare and serve a notice of hearing on all parties to the appeal or contested case at least thirty days before the hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. After the initial notice and on application, a more definite and detailed statement shall be furnished.

E. Notwithstanding subsection D, a hearing shall be expedited as provided by law or upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal or contested case have actual notice of the hearing date. Any party to the appeal or contested case may file a motion with the director asserting the party's right to an expedited hearing. The right to an expedited hearing shall be listed on any abatement order. The Arizona health care cost containment system administration may file a motion with every member grievance and eligibility appeal that cites federal law and that requests that a hearing be set within thirty days after the motion is filed.

F. Prehearing conferences may be held to:

1. Clarify or limit procedural, legal or factual issues.
2. Consider amendments to any pleadings.
3. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.
4. Obtain stipulations or rulings regarding testimony, exhibits, facts or law.
5. Schedule deadlines, hearing dates and locations if not previously set.
6. Allow the parties opportunity to discuss settlement.

**41-1092.06. Appeals of agency actions and contested cases; informal settlement conferences; applicability**

A. If requested by the appellant of an appealable agency action or the respondent in a contested case, the agency shall hold an informal settlement conference within fifteen days after receiving the request. A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing. If an informal settlement conference is requested, the agency shall notify the office of the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F. The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.

B. If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference. The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.

**41-1092.07. Hearings**

A. A party to a contested case or appealable agency action may file a nonperemptory motion with the director to disqualify an office administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.

B. The parties to a contested case or appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.

C. The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The administrative law judge may administer oaths and affirmations to witnesses.

D. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative

evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

E. All hearings shall be recorded. The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the agency's expense. Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

F. Unless otherwise provided by law, the following apply:

1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.

2. Copies of documentary evidence may be received in the discretion of the administrative law judge. On request, parties shall be given an opportunity to compare the copy with the original.

3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.

4. On application of a party or the agency and for use as evidence, the administrative law judge may permit a deposition to be taken, in the manner and on the terms designated by the administrative law judge, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the administrative law judge if the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in court, unless otherwise provided by law or agency rule. Notwithstanding section 12-2212, subpoenas, depositions or other discovery shall not be permitted except as provided by this paragraph or subsection C of this section.

5. Informal disposition may be made by stipulation, agreed settlement, consent order or default.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

7. A final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Conclusions of law shall specifically address the agency's authority to make the decision consistent with section 41-1030.

G. Except as otherwise provided by law:

1. At a hearing on an agency's denial of a license or permit or a denial of an application or request for modification of a license or permit, the applicant has the burden of persuasion.

2. At a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.

3. At a hearing on an agency's imposition of fees or penalties or any agency compliance order, the agency has the burden of persuasion.

4. At a hearing held pursuant to chapter 23 or 24 of this title, the appellant or claimant has the burden of persuasion.

H. Subsection G of this section does not affect the law governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.

**41-1092.08. Final administrative decisions; review; exception**

A. The administrative law judge of the office shall issue a written decision within twenty days after the hearing is concluded. The written decision shall contain a concise explanation of the reasons supporting the decision, including the findings of fact and conclusions of law. The administrative law judge shall serve a copy of the decision on the agency. On request of the agency, the office shall also transmit to the agency the record of the hearing as described in section 12-904, except as provided in section 41-1092.01, subsection F.

B. Within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, the head of the agency, executive director, board or commission may review the decision and accept, reject or modify it. If the head of the agency, executive director, board or commission declines to review the administrative law judge's decision, the agency shall serve a copy of the decision on all parties. If the head of the agency, executive director, board or commission rejects or modifies the decision, the agency head, executive director, board or commission must file with the office, except as provided in section 41-1092.01, subsection F, and serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification of each finding of fact or conclusion of law. If there is a rejection or modification of a conclusion of law, the written justification shall be sent to the president of the senate and the speaker of the house of representatives.

C. A board or commission whose members are appointed by the governor may review the decision of the agency head, as provided by law, and make the final administrative decision.

D. Except as otherwise provided in this subsection, if the head of the agency, the executive director or a board or commission does not accept, reject or modify the administrative law judge's decision within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, as evidenced by receipt of such action by the office by the thirtieth day, the office shall certify the administrative law judge's decision as the final administrative decision. If the board or commission meets monthly or less frequently, if the office sends the administrative law judge's decision at least thirty days before the next meeting of the board or commission and if the board or commission does not accept, reject or modify the administrative law judge's decision at the next meeting of the board or commission, as evidenced by receipt of such action by the office within five days after the meeting, the office shall certify the administrative law judge's decision as the final administrative decision.

E. For the purposes of subsections B and D of this section, a copy of the administrative law judge's decision is sent on personal delivery of the decision or five days after the decision is mailed to the head of the agency, executive director, board or commission.

F. The decision of the agency head is the final administrative decision unless either:

1. The agency head, executive director, board or commission does not review the administrative law judge's decision pursuant to subsection B of this section or does not reject or modify the administrative law judge's decision as provided in subsection D of this section, in which case the administrative law judge's decision is the final administrative decision.

2. The decision of the agency head is subject to review pursuant to subsection C of this section.

G. If a board or commission whose members are appointed by the governor makes the final administrative decision as an administrative law judge or on review of the decision of the agency head, the decision is not subject to review by the head of the agency.

H. A party may appeal a final administrative decision pursuant to title 12, chapter 7, article 6, except as provided in section 41-1092.09, subsection B and except that if a party has not requested a hearing on receipt of a notice of appealable agency action pursuant to section 41-1092.03, the appealable agency action is not subject to judicial review.

I. This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

#### 41-1092.09. Rehearing or review

A. Except as provided in subsection B of this section:

1. A party may file a motion for rehearing or review within thirty days after service of the final administrative decision.

2. The opposing party may file a response to the motion for rehearing within fifteen days after the date the motion for rehearing is filed.

3. After a hearing has been held and a final administrative decision has been entered pursuant to section 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

B. A party to an appealable agency action of or contested case with a self-supporting regulatory board shall exhaust the party's administrative remedies by filing a motion for rehearing or review within thirty days after the service of the administrative decision that is subject to rehearing or review in order to be eligible for judicial review pursuant to title 12, chapter 7, article 6. The board shall notify the parties in the administrative decision that is subject to rehearing or review that a failure to file a motion for rehearing or review within thirty days after service of the decision has the effect of prohibiting the parties from seeking judicial review of the board's decision.

C. Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address.

D. Except as provided in this subsection, the agency head, executive director, board or commission shall rule on the motion within fifteen days after the response to the motion is filed or, if a response is not filed, within five days of the expiration of the response period. A self-supporting regulatory board shall rule on the motion within fifteen days after the response to the motion is filed or at the board's next meeting after the motion is received, whichever is later.

#### 41-1092.10. Compulsory testimony; privilege against self-incrimination

A. A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person that would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege before the production of the testimony or papers.

B. If a person asserts the privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, the office or agency as provided in section 41-1092.01, subsection F may issue, with the prior written approval of the attorney general, a written order compelling the testimony or production of documents in proceedings and investigations before the office or agency as provided in section 41-1092.01, subsection F or apply to the appropriate court for such an order in other actions or proceedings.

C. Evidence produced pursuant to subsection B of this section is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing the person's private papers.

#### 41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal

A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

#### 41-1092.12. Private right of action; recovery of costs and fees; definitions

A. If an agency takes an action against a party that is arbitrary, capricious or not in accordance with law, the action is an appealable agency action if all of the following apply:

1. Within ten days after the action that is arbitrary, capricious or not in accordance with law, the party notifies the director of the agency in writing of the party's intent to file a claim pursuant to this section. This notice shall include a description of the action the party claims to be arbitrary,

capricious or not in accordance with law and reasons why the action is arbitrary, capricious or not in accordance with law.

2. The agency continues the action that is arbitrary, capricious or not in accordance with law more than ten days after the agency receives the notice.

3. The action is not excluded from the definition of appealable agency action as defined in section 41-1092.

B. This section only applies if an administrative remedy or an administrative or a judicial appeal of final agency action is not otherwise provided by law.

C. If the party prevails, the agency shall pay reasonable costs and fees to the party from any monies appropriated to the agency and available for that purpose or from other operating monies of the agency. If the agency fails or refuses to pay the award within fifteen days after the demand, and if no further review or appeal of the award is pending, the prevailing party may file a claim with the department of administration. The department of administration shall pay the claim within thirty days in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1, except that the agency is responsible for the total amount awarded and shall pay it from its operating monies. If the agency had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the agency's operating appropriation for the following fiscal year by the amount of the award and shall appropriate that amount to the department of administration as reimbursement for the loss.

D. If the administrative law judge determines that the appealable agency action is frivolous, the administrative law judge may require the party to pay reasonable costs and fees to the agency in responding to the appeal filed before the office of administrative hearings.

E. For the purposes of this section:

1. "Action against the party" means any of the following that results in the expenditure of costs and fees:

(a) A decision.

(b) An inspection.

(c) An investigation.

(d) The entry of private property.

2. "Agency" means the department of environmental quality established pursuant to title 49, chapter 1, article 1.

3. "Costs and fees" means reasonable attorney and professional fees.

4. "Party" means an individual, partnership, corporation, association and public or private organization at whom the action was directed and who has expended costs and fees as a result of the action against the party.

**ARIZONA STATE RETIREMENT SYSTEM**

Title 2, Chapter 8

**Amend:** R2-8-501, R2-8-505, R2-8-1006



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 13, 2022

**SUBJECT:** Arizona State Retirement System Board (ASRS)  
Title 2, Chapter 8, Articles 5 & 10

**Amend:** R2-8-501, R2-8-505, R2-8-1006

---

### **Summary:**

This regular rulemaking from the ASRS relates to rules in Title 2, Chapter 8, Article 5 (Purchasing Service Credit) and Article 10 (Membership). The ASRS seeks to amend three rules to clarify how and if a member or employer may purchase service credit in the ASRS if the member has already earned service credit in another system for the same time period pursuant to A.R.S. §§ 38-729, 743, and 744. These amendments will result in rules that are more clear, concise, understandable, and consistent with other rules and statutes.

The ASRS is seeking a regular 60-day delayed effective date. The ASRS received approval from the rulemaking moratorium to initiate this rulemaking on June 1, 2021 and final approval to submit this rulemaking to the Council on February 11, 2022.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The ASRS cites both general and specific statutory authority for the rules.

2. **Do the rules establish a new fee or contain a fee increase?**

No, this rulemaking does not establish a new fee and does not contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The ASRS did not review or rely on a study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

The ASRS needs to amend its rules relating to service purchase requirements. These rule changes will increase understandability of how a member may purchase or transfer service credit, but the rules do not impose any additional requirements or burdens on members.

In the past fiscal year, the ASRS processed approximately 2,279 service purchases. The ASRS currently has a total membership of approximately 627,975. With the changes completed in this rulemaking, the processes for purchasing service will be clearer and more effective. The rule will have minimal economic impact because it merely clarifies in further detail how a member may purchase or transfer service credits.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The ASRS believes that this is the least costly and less intrusive method, since the rule clarifies service purchase processes without imposing additional requirements on the public.

6. **What are the economic impacts on stakeholders?**

All members of the ASRS, as well as their beneficiaries, will be directly affected by this rulemaking. ASRS will bear the costs of, and directly benefit from this rulemaking. The ASRS will also incur the financial cost of the rulemaking. Members and employers may be affected based on the various transactions. This rule will provide direction to the public about when a member or employer may elect to purchase service. These clarifications will benefit members and employers by increasing the readability of the rules and restrictions on purchasing service.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The ASRS did not make any changes to the rule between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking.

8. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

No, the ASRS indicates they did not receive any written comments regarding this rulemaking.

9. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable, the rules do not require a permit.

10. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable, there are no corresponding federal laws to the rules.

11. **Conclusion**

In this regular rulemaking the ASRS is seeking to amend three rules to clarify how and if a member or employer may purchase service credit in the ASRS. The rule amendments will result in rules that are more clear, concise, understandable, and consistent with other rules and statutes.

The ASRS is seeking a regular 60-day delayed effective date for these rules. Council staff recommends approval of this report.

March 22, 2022

Ms. Nicole Sornsin, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 2. Administration  
Chapter 8. State Retirement System Board**

Dear Ms. Sornsin:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on December 20, 2021 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.
3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.
4. Immediate effective date: An immediate effective date is requested pursuant to A.R.S. § 41-1032(A).
5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.
6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.
7. List of documents enclosed:
  - a. Cover letter signed by the Board's Assistant Director;
  - b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
  - c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,



Jeremiah Scott  
Assistant Director

**NOTICE OF FINAL RULEMAKING**  
**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**PREAMBLE**

<b><u>1. Articles, Parts, and Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
R2-8-501	Amend
R2-8-505	Amend
R2-8-1006	Amend

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

Authorizing statute: A.R.S. § 38-714(E)(4)  
Implementing statutes: A.R.S. §§ 38-711 et seq.

**3. The effective date for the rules:**

**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):**

None

**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: 27 A.A.R. 2700, November 19, 2021

Notice of Proposed Rulemaking: 27 A.A.R. 2685, November 19, 2021

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

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Ste. 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039

E-Mail: [Ruleswriter@azasrs.gov](mailto:Ruleswriter@azasrs.gov)

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

The ASRS needs to amend its rules relating to service purchase requirements. A.R.S. §§ 38-729, 38-743, and 38-744 indicate that a member or employer may not purchase service credit if credit or benefits have already been earned for the same time period in “another public employee retirement system.” The ASRS needs to amend its service purchase rules to clarify how and if a member or employer may purchase service credit in the ASRS if the member has already earned service credit in another such system for the same time period. Additionally, the ASRS needs to clarify that pursuant to the service purchase statutes, a service purchase cannot be completed after the member’s death. These rules will increase understandability of how a member may purchase or transfer service credit, but the rules do not impose any additional requirements or burdens on members.

**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:**

No study was reviewed.

**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 ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies in further detail how a member may purchase or transfer service credits.

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

None

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

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on December 20, 2021.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

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

Not applicable.

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

**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**ARTICLE 5. PURCHASING SERVICE CREDIT**

Section

R2-8-501. Definitions

R2-8-505. Restrictions on Purchasing Overlapping Service Credit

**ARTICLE 10. MEMBERSHIP**

R2-8-1006. Prior Service Purchase for New Employers

## ARTICLE 5. PURCHASING SERVICE CREDIT

### R2-8-501. Definitions

The following definitions apply to this Article unless otherwise specified:

1. “Active duty” means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
2. “Active reserve duty” means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
3. “Actuarial present value” means an amount in today’s dollars of a member’s future retirement benefit calculated using appropriate actuarial assumptions and the:
  - a. Eligible Member’s Current Years of Credited Service;
  - b. Eligible Member’s age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;
  - c. Amount of Service Credit the member wishes to purchase; and
  - d. Member’s current annual compensation.
4. “Authorized representative” means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member’s IRA or 403(b) is not maintained by the member’s Employer.
5. “Current years of credited service” means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
6. “Custodian” means a financial institution that holds financial assets for guaranteed safekeeping.

7. “Direct rollover” means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
8. “Eligible funds” means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
9. “Eligible member” means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
10. “Forfeited service” means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
11. “IRC” means the same as “Internal Revenue Code” in A.R.S. § 38-711(18).
12. “Irrevocable PDA” means an irrevocable “Payroll Deduction Authorization” contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member’s pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
13. “Leave of absence service” means an approved leave of absence without pay as specified in A.R.S. § 38-744.
14. “LTD” means the same as in R2-8-301.
15. “Military Call-up service” means a member is called to Active Duty under A.R.S. § 38-745 in a branch of the United States Uniformed Services.
16. “Military service” means Active Duty or Active Reserve Duty under A.R.S. § 38-745 with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
17. “Military service record” means a United States Uniformed Services or National Oceanic and Atmospheric Administration document that provides the following information:

- a. The member's full name;
  - b. The member's Social Security number;
  - c. Type of discharge the member received; and
  - d. Active Duty dates, if applicable; or
  - e. Active Reserve Duty dates, if applicable; and
  - f. Point history for Active Reserve Duty dates, if applicable.
18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service ~~under A.R.S. § 38-745~~, and Other Public Service that an Eligible Member may purchase.
22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of money required to purchase a specified amount of Service Credit.
23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).

24. “Three full calendar months” means the first day of the first full month through the last day of the third consecutive full month.
25. “Transfer employment” means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
- a. After accepting an offer to work for a new Employer;
  - b. While working as an active member for a different Employer; or
  - c. Before returning to work with any Employer within 120 days of terminating employment.
26. “Trustee-to-Trustee transfer” means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
27. “Uniformed services” means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
28. “Window credit” means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.

**R2-8-505. Restrictions on Purchasing Overlapping Service Credit**

- A.** The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:
1. One year of credited service in any plan year, or
  2. One month of credited service in any one calendar month.

**B.** A member may not purchase Service Credit for any period of time for which the member is eligible to receive retirement benefits from another public employee retirement system.

**C.** For purposes of this section, “another public employee retirement system” means any retirement plan providing retirement benefits and maintained by the United States government, a state, territory, commonwealth, overseas possession or insular area of the United State or a political subdivision of a state, territory, commonwealth, overseas possession or insular area of the United States.

## **ARTICLE 10 MEMBERSHIP**

### **R2-8-1006. Prior Service Purchase Cost for New Employers**

- A.** Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B.** The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
1. The employee’s full name;
  2. The employee’s date of birth;

3. The employee's Social Security number;
  4. The employee's current salary; and
  5. The date the employee began employment with the potential Employer.
- C.** An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
1. Member's full name;
  2. Member's date of birth;
  3. Member's Social Security number;
  4. Member's date of employment;
  5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
  6. Member's current salary as of the effective date of joining the ASRS; and
  7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D.** The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E.** An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.
- F.** If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.

**G.** An employer may not purchase service credit pursuant to this Section for a time period for which the employee is eligible to receive retirement benefits from another public employee retirement system.

**F.** For purposes of this Section, “another public employee retirement system” means the same as in R2-8-505.

# ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>

## TITLE 2. ADMINISTRATION

### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

#### 1. Identification of the rulemaking:

The ASRS needs to amend its rules relating to service purchase requirements. A.R.S. §§ 38-729, 38-743, and 38-744 indicate that a member or employer may not purchase service credit if credit or benefits have already been earned for the same time period in “another public employee retirement system.” The ASRS needs to amend its service purchase rules to clarify how and if a member or employer may purchase service credit in the ASRS if the member has already earned service credit in another such system for the same time period. Additionally, the ASRS needs to clarify that pursuant to the service purchase statutes, a service purchase cannot be completed after the member’s death. These rules will increase understandability of how a member may purchase or transfer service credit, but the rules do not impose any additional requirements or burdens on members.

#### a. The conduct and its frequency of occurrence that the rule is designed to change:

In the past fiscal year, the ASRS processed approximately 2,279 service purchases. With the changes completed in this rulemaking, the processes for purchasing service, will be clearer and more effective. Ultimately, the rules will clarify how and when a member or Employer may request a service purchase.

#### b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

---

<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

Currently, the ASRS does not foresee significant changes or harm resulting from the conduct the rule is designed to change. However, without this rulemaking, members and Employers will not be aware of the restrictions on purchasing overlapping service. Implementing clear and concise language will ensure members and Employers understand how the ASRS will process such requests. This rulemaking will ensure the ASRS is consistent with Arizona statutes.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

Arizona statutes indicate that members or Employers may not purchase overlapping service. This rulemaking simply clarifies that statutory restriction. Therefore, the ASRS does not anticipate any change in frequency as a result of this rule. As discussed above and below, this rulemaking will increase the clarity of the service purchase processes, which will incorporate consistent language and reduce confusion.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies in further detail how a member may purchase or transfer service credits.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-mail: [JessicaT@azasrs.gov](mailto:JessicaT@azasrs.gov)

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members of the ASRS, as well as their beneficiaries, will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 627,975.

Specifically, members and Employers may be affected based on the various transactions. This rule will provide direction to the public about when a member or Employer may elect to purchase service. Such clarification will benefit members and Employers by increasing the readability of the rules and restrictions on purchasing service.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

This rulemaking does not directly affect state agencies and the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment.

7. Impact on small businesses<sup>2</sup>:

a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.

b. Administrative and other costs required for compliance with the rulemaking:

Not applicable.

c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS retired members, beneficiaries, and Employers are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:

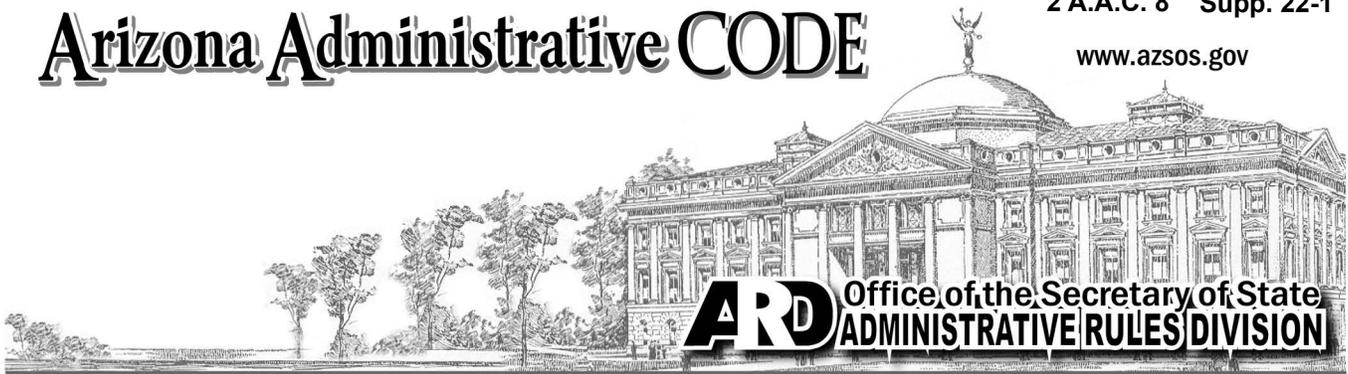
There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

---

<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(20).

The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.



## TITLE 2. ADMINISTRATION

### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

The table of contents on page one contains links to the referenced page numbers in this Chapter.  
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1 through March 31, 2022

<a href="#">R2-8-401.</a>	<a href="#">Definitions .....</a>	<a href="#">31</a>	<a href="#">R2-8-403.</a>	<a href="#">Letters of Appeal; Request for a Hearing of an</a>	<a href="#">Appealable Agency Action .....</a>	<a href="#">31</a>
---------------------------	-----------------------------------	--------------------	---------------------------	--	--	--------------------

#### Questions about these rules? Contact:

Board: Arizona State Retirement System  
Address: 3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Website: <https://www.azasrs.gov>  
Name: Jessica A.R. Thomas, Rules Writer  
Telephone: (602) 240-2039  
E-mail: [Ruleswriter@azasrs.gov](mailto:Ruleswriter@azasrs.gov)

#### The release of this Chapter in Supp. 22-1 replaces Supp. 21-1, 1-53 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

---

### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

### RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, [www.azsos.gov](http://www.azsos.gov) under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### PERSONAL USE/COMMERCIAL USE

This Chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.*

Administrative Rules Division  
The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TTITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

Authority: A.R.S. § 38-701 et seq.

**Supp. 22-1**

**CHAPTER TABLE OF CONTENTS**

**ARTICLE 1. RETIREMENT SYSTEM**

Section

R2-8-101. Repealed ..... 4

R2-8-102. Repealed ..... 4

R2-8-103. Repealed ..... 4

R2-8-104. Definitions ..... 4

R2-8-105. Repealed ..... 4

R2-8-106. Reserved ..... 4

R2-8-107. Reserved ..... 4

R2-8-108. Reserved ..... 4

R2-8-109. Reserved ..... 4

R2-8-110. Reserved ..... 4

R2-8-111. Reserved ..... 4

R2-8-112. Reserved ..... 4

R2-8-113. Emergency Expired ..... 4

R2-8-114. Emergency Expired ..... 5

R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death 5

R2-8-116. Alternate Contribution Rate ..... 6

R2-8-117. Return to Work After Retirement ..... 7

R2-8-118. Application of Interest Rates ..... 7

R2-8-119. Expired ..... 8

R2-8-120. Repealed ..... 8

R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice ..... 8

R2-8-122. Remittance of Contributions ..... 8

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets ..... 8

Table 1. Expired ..... 9

Table 2. Expired ..... 9

Table 3. Repealed ..... 9

Table 3A. Expired ..... 9

Table 3B. Expired ..... 9

Table 4. Expired ..... 9

Table 4A. Repealed ..... 10

Table 4B. Repealed ..... 10

Table 4C. Repealed ..... 10

Table 5. Expired ..... 10

Table 6. Expired ..... 10

Table 7. Expired ..... 10

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations ..... 10

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations ..... 11

R2-8-126. Retirement Application ..... 12

R2-8-127. Re-Retirement Application ..... 14

R2-8-128. Joint and Survivor Retirement Benefit Options 15

R2-8-129. Period Certain and Life Annuity Retirement Options ..... 15

R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant ..... 15

R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation .....17

R2-8-132. Survivor Benefit Options .....18

R2-8-133. Survivor Benefit Applications .....19

Table 1. Repealed .....21

Table 2. Repealed .....21

Table 3. Repealed .....21

Table 4. Repealed .....22

Table 5. Repealed .....22

Table 6. Repealed .....22

Table 7. Repealed .....22

Table 8. Repealed .....22

Table 9. Repealed .....22

Table 10. Repealed .....22

Table 11. Repealed .....22

Exhibit A. Repealed .....22

Exhibit C. Repealed .....23

Exhibit G. Repealed .....24

Exhibit H. Repealed .....25

Exhibit I. Repealed .....25

Exhibit J. Repealed .....25

Exhibit K. Repealed .....25

**ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**

*Article 2, consisting of R2-8-201 through R2-8-207, made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017; under the authority of A.R.S. § 38-714(E)(4) (Supp. 17-2).*

*Article 2, consisting of R2-8-201 through R2-8-207, made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2).*

Section

R2-8-201. Definitions .....26

R2-8-202. Premium Benefit Eligibility and Benefit Determination .....27

R2-8-203. Payment of Premium Benefit .....27

R2-8-204. Premium Benefit Calculation .....28

R2-8-205. Premium Benefit Documentation .....28

R2-8-206. Six-Month Reimbursement Program .....28

R2-8-207. Optional Premium Benefit .....29

**ARTICLE 3. LONG-TERM DISABILITY**

*Article 3, consisting of R2-8-301 through R2-8-306, made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).*

Section

R2-8-301. Definitions .....30

R2-8-302. Application for Long-Term Disability Benefit ...30

R2-8-303. Long-Term Disability Calculation .....30

R2-8-304. Payment of Long-Term Disability Benefit .....30

R2-8-305. Social Security Disability Appeal .....31

R2-8-306. Approval of Social Security Disability .....31

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**

*Article 4, consisting of R2-8-401 through R2-8-405, made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).*

Section	
R2-8-401.	Definitions ..... 31
R2-8-402.	General Procedures ..... 31
R2-8-403.	Letters of Appeal; Request for a Hearing of an Appealable Agency Action ..... 31
R2-8-404.	Board Decisions on Hearings before the Office of Administrative Hearings ..... 32
R2-8-405.	Motion for Rehearing Before the Board; Motion for Review of a Final Decision ..... 32

**ARTICLE 5. PURCHASING SERVICE CREDIT**

*Article 5, consisting of R2-8-501 through R2-8-521, made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2).*

Section	
R2-8-501.	Definitions ..... 33
R2-8-502.	Request to Purchase Service Credit and Notification of Cost ..... 34
R2-8-503.	Requirements Applicable to All Service Credit Purchases ..... 34
R2-8-504.	Service Credit Calculation for Purchasing Service Credit ..... 35
R2-8-505.	Restrictions on Purchasing Overlapping Service Credit ..... 35
R2-8-506.	Cost Calculation for Purchasing Service Credit ..... 35
R2-8-507.	Required Documentation and Calculations for Forfeited Service Credit ..... 35
R2-8-508.	Required Documentation and Calculations for Leave of Absence Service Credit ..... 35
R2-8-509.	Required Documentation and Calculations for Military Service Credit ..... 36
R2-8-510.	Required Documentation and Calculations for Military Call-up Service Credit ..... 36
R2-8-511.	Required Documentation and Calculations for Other Public Service Credit ..... 37
R2-8-512.	Purchasing Service Credit by Check, Cashier's Check, or Money Order ..... 38
R2-8-513.	Purchasing Service Credit by Irrevocable PDA ..... 38
R2-8-513.01.	Irrevocable PDA and Transfer of Employment to a Different Employer ..... 39
R2-8-513.02.	Termination Date ..... 39
R2-8-514.	Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer ..... 40
R2-8-515.	Repealed ..... 41
R2-8-516.	Expired ..... 41
R2-8-517.	Expired ..... 41
R2-8-518.	Repealed ..... 41
R2-8-519.	Purchasing Service Credit by Termination Pay ..... 41
R2-8-520.	Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA ..... 42
R2-8-521.	Adjustment of Errors ..... 42

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**

*Article 6, consisting of R2-8-601 through R2-8-607, made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1).*

Section	
---------	--

R2-8-601.	Definitions .....42
R2-8-602.	Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements .....42
R2-8-603.	Petition for Rulemaking .....42
R2-8-604.	Review of a Rule, Agency Practice, or Substantive Policy Statement .....42
R2-8-605.	Objection to Rule Based Upon Economic, Small Business and Consumer Impact .....43
R2-8-606.	Oral Proceedings .....43
R2-8-607.	Petition for Delayed Effective Date .....43

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**

*Article 7, consisting of R2-8-701 through R2-8-709, made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).*

Section	
R2-8-701.	Definitions .....43
R2-8-702.	General Information .....44
R2-8-703.	Employer's Discovery of Error .....44
R2-8-704.	Member's Discovery of Error .....44
R2-8-705.	ASRS' Discovery of Error .....45
R2-8-706.	Determination of Contributions Not Withheld .....45
R2-8-707.	Submission of Payment .....45
R2-8-708.	Expired .....45
R2-8-709.	Repealed .....45

**ARTICLE 8. RECOVERY OF OVERPAYMENTS**

*Article 8, consisting of R2-8-801 through R2-8-810, made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).*

Section	
R2-8-801.	Definitions .....45
R2-8-802.	Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount .....46
R2-8-803.	Reimbursement of Overpayments .....46
R2-8-804.	Collection of Overpayments from Forfeiture .....46
R2-8-805.	Collection of Overpayments from Retirement Benefit .....46
R2-8-806.	Collection of Overpayments from Survivor Benefit .....47
R2-8-807.	Collection of Overpayments from LTD Benefit .....47
R2-8-808.	Collection of Overpayments by the Attorney General .....47
R2-8-809.	Collection of Overpayments by the Arizona Department of Revenue .....47
R2-8-810.	Collection of Overpayments by Garnishment or Levy .....47

**ARTICLE 9. COMPENSATION**

*Article 9, consisting of new Sections R2-8-901 through R2-8-904, made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 20-1).*

*Article 9, consisting of R2-8-901 through R2-8-905, made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).*

*Article 9, consisting of R2-8-901 through R2-8-905, expired at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).*

Section	
R2-8-901.	Definitions .....47
R2-8-902.	Remitting Contributions .....47
R2-8-903.	Accrual of Credited Service .....47
R2-8-904.	Compensation from An Additional Employer .....48
R2-8-905.	Expired .....48

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 10. MEMBERSHIP

Article 10, consisting of Sections R2-8-1001 through R2-8-1005, made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

Section

R2-8-1001. Definitions ..... 48

R2-8-1002. Employee Membership ..... 48

R2-8-1003. Charter School Employer Membership ..... 49

R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership ..... 50

R2-8-1005. Employer Reporting .....50

R2-8-1006. Prior Service Purchase Cost for New Employers ...  
.....51

ARTICLE 11. TRANSFER OF SERVICE CREDIT

Section

R2-8-1101. Definitions .....52

R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit .....52

R2-8-1103. Transferring Service to Other Retirement Plans..53

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**ARTICLE 1. RETIREMENT SYSTEM****R2-8-101. Repealed****Historical Note**

Former Rule, Social Security Regulation 1; Former Section R2-8-01 renumbered as Section R2-8-101 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (A) and (C) effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-102. Repealed****Historical Note**

Former Rule, Social Security Regulation 2; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-02 renumbered as Section R2-8-102 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A), (B), and (D), amended effective April 12, 1984 (Supp. 84-2). Correction, subsection (B), as amended effective April 12, 1984 (Supp. 84-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-103. Repealed****Historical Note**

Former Rule, Social Security Regulation 3; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-03 renumbered as Section R2-8-103 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A) thru (C), amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-104. Definitions**

- A. The definitions in A.R.S. § 38-711 apply to this Chapter.
- B. Unless otherwise specified, in this Chapter:
1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
  2. "Assumed actuarial investment earnings rate" means the assumed rate of investment return approved by the Board and contained in R2-8-118(A).
  3. "Authorized employer representative" means an individual specified by the Employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
  4. "Contribution" means:
    - a. Amounts required by A.R.S. Title 38, Chapter 5, Articles 2 and 2.1 to be paid to the ASRS by a member or an employer on behalf of a member;
    - b. Any voluntary amounts paid to the ASRS pursuant to 2 A.A.C. 8, Article 5 by a member to be placed in the member's account; and
    - c. Amounts credited by transfer under 2 A.A.C. 8, Article 11.
  5. "Day" means a calendar day, and excludes the:
    - a. Day of the act or event from which a designated period of time begins to run; and

- b. Last day of the period if a Saturday, Sunday, or official state holiday.
6. "Designated beneficiary" means the same as in A.R.S. § 38-762(G) or another person designated as a beneficiary by law.
7. "Director" means the Director appointed by the Board as provided in A.R.S. § 38-715.
8. "Individual retirement account" or "IRA" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
9. "Party" means the same as in A.R.S. § 41-1001(14).
10. "Person" means the same as in A.R.S. § 41-1001(15).
11. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-712(B), and as administered by the ASRS.
12. "Retirement account" means the same as in A.R.S. § 38-771(J)(2).
13. "Rollover" means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
14. "Terminate employment" means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
15. "United States" means the same as in A.R.S. § 1-215(39).

**Historical Note**

Former Rule, Social Security Regulation 4; Former Section R2-8-04 renumbered as Section R2-8-104 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (G), (J), and (K) effective April 12, 1984 (Supp. 84-2). Typographical error corrected in subsection (5)(c) "required" corrected to "required" (Supp. 97-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-105. Repealed****Historical Note**

Former Rule, Social Security Regulation 5; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-05 renumbered as Section R2-8-105 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-106. Reserved****R2-8-107. Reserved****R2-8-108. Reserved****R2-8-109. Reserved****R2-8-110. Reserved****R2-8-111. Reserved****R2-8-112. Reserved****R2-8-113. Emergency Expired**

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

**R2-8-114. Emergency Expired****Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

**R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death**

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

1. "DRO" means the same as "domestic relations order" in A.R.S. § 38-773(H)(1).
2. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
3. "Employer Number" means a unique identifier the ASRS assigns to a member employer.
4. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
5. "LTD" Means the same as in R2-8-301.
6. "On File" means ASRS has received the information.
7. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
8. "Warrant" means a voucher authorizing payment of funds due to a member.

B. A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents necessary to apply for the withdrawal of the member's contributions.

C. Upon request to withdraw by the member, the ASRS shall provide:

1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer, if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS.

D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:

1. The member's full name;
2. The member's Social Security number or U.S. Tax Identification number;
3. The member's current mailing address, if not On File with ASRS;
4. The member's birth date, if not On File with ASRS;
5. Notarized signature of the member certifying that the member:
  - a. Is no longer employed by any Employer;
  - b. Is neither under contract nor has any verbal or written agreement for future employment with an Employer;
  - c. Is not currently in a leave of absence status with an Employer;

d. Understands that each of the member's former Employers will complete an ending payroll verification form if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS;

e. Understands that the member's most recent Employer will complete an ending payroll verification form for the member if the member has reached the member's required beginning date pursuant to A.R.S. § 38-775;

f. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application and the member elects to waive the member's 30-day waiting period to consider a roll over or a cash distribution;

g. Understands that the member is forfeiting all future retirement rights and privileges of membership with ASRS;

h. Understands that LTD benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;

i. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;

j. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and

k. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for roll over will be paid directly to the member and any taxable amounts will be subject to applicable state and federal tax withholding;

l. Understands that the member is not considered terminated and cannot withdraw the member's ASRS contribution if the member was called to active military service and is not currently performing services for an Employer;

m. Understands that any person who knowingly makes any false statement with an intent to defraud the ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793.

6. Specify that:

a. The entire amount of the distribution be paid directly to the member,

b. The entire amount of the distribution be rolled over to an eligible retirement plan, or

c. An identified amount of the distribution be rolled over to an eligible retirement plan and the remaining amount be paid directly to the member; and

7. If the member selects all or a portion of the withdrawal be rolled over to an eligible retirement plan, specify;

a. The type of eligible retirement plan; and

b. The name and mailing address of the eligible retirement plan.

E. If ASRS has received contributions for the member within six months immediately preceding the date the member submitted

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

the request to ASRS each Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:

1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The member's termination date;
  4. The member's final pay period ending date;
  5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
  6. The Employer's name and telephone number;
  7. The Employer Number;
  8. The name and title of the authorized Employer representative;
  9. Certification by the authorized Employer representative that:
    - a. The member Terminated Employment and is neither under contract nor bound by any verbal or written agreement for employment with the Employer;
    - b. There is no agreement to re-employ the member;
    - c. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
    - d. The authorized Employer representative certifies that they are the Employer user named on the Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form and their title and contact information is current and correct.
- F.** If the member has attained a required beginning distribution date as of the date the member submitted the request to ASRS, the most recent Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the information contained in subsection (E).
- G.** If the member requests a return of contributions and a Warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H.** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the Warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I.** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless a present or former spouse submits to the ASRS a certified copy or original DRO that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- J.** A member may cancel an Application for Withdrawal of Contributions and Termination of Membership form at any time

before the return of contributions is disbursed by submitting written notice to ASRS to cancel the request.

- K.** If an Application for Withdrawal of Contributions and Termination of Membership form is completed through the member's secure ASRS account, the secure login and successful submission of the knowledge based answers shall serve as the member's notarized signature required under subsection (D)(5).

**Historical Note**

Former Rule, Social Security Regulation 1; Amended effective Dec. 20, 1979 (Supp. 79-6). Former Section R2-8-15 renumbered as Section R2-8-115 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 644, effective February 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-116. Alternate Contribution Rate**

- A.** For purposes of this Section, the following definitions apply:
1. "ACR" means an alternate contribution rate pursuant to A.R.S. § 38-766.02, the resulting amount of which is not deducted from the employee's compensation.
  2. "Class of positions" means all employment positions of the employer that perform the same, or substantially similar, function or duties, for the employer as determined by the ASRS in subsection (B).
  3. "Compensation" has the same meaning as A.R.S. § 38-711(7) and does not include ACR amounts.
  4. "Leased from a third party" means:
    - a. The employee is not employed by an employer; and
    - b. A co-employment relationship, as defined in A.R.S. § 23-561(4), does not exist.
- B.** An employer that employs a retired member shall pay an ACR to the ASRS, unless the employer provides proof that:
1. The retired member is leased from a third party; and
  2. All employees in the entire class of positions, to which the retired member's position belongs, have been leased from a third party; and
  3. No employee who has not been leased is performing the same, or substantially similar, function or duties, as the retired member.
- C.** In order to determine whether an employer satisfies the criteria in subsection (B), the employer shall submit information and documentation, pursuant to A.R.S. § 38-766.02(E), within 14 days of written request by the ASRS.
- D.** The employer shall directly remit payment of an ACR to the ASRS from the employer's funds, through the employer's secure ASRS account within 14 days of the first pay period end date after the hire of the retired member.
- E.** If the employer does not remit the ACR by the date it is due pursuant to subsection (D), the ASRS shall charge interest on the ACR amount from the date it was due to the date the ACR payment is remitted to the ASRS at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- F.** A payment of an ACR on behalf of a retired member pursuant to A.R.S. § 38-766.02, shall not entitle a retired member to a refund of an ACR payment or any additional ASRS benefit as described in A.R.S. § 38-766.01(E).

**Historical Note**

Former Rule, Retirement System Regulation 2; Former Section R2-8-16 renumbered as Section R2-8-116 with-

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

out change effective May 21, 1982 (Supp. 82-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 22 A.A.R. 1341, effective July 4, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

**R2-8-117. Return to Work After Retirement**

- A. Unless otherwise specified, in this Section:
  - 1. "Commencing employment" means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders services directly to an Employer for which the retired member is entitled to be paid.
  - 2. "Returns to work" means the member retired from the ASRS prior to Commencing Employment with an Employer.
- B. Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member's current Employers through the retired member's secure website account within 30 days of the retired member Commencing Employment with an Employer.
- C. Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member's employment information and submit the verified Working After Retirement form to the ASRS through the Employer's secure website account for each retired member who returns to work with the Employer.
- D. After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS through the Employer's secure website account within 30 days of a change in the actual hours or intent of each retired member's employment that results in:
  - 1. The member's number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
  - 2. The member's number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.
- E. The Working After Retirement form shall contain the following information:
  - 1. The retired member's Social Security number or U.S. Tax Identification number;
  - 2. The retired member's full name;
  - 3. The date the member retired;
  - 4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
  - 5. The first date of Commencing Employment upon the retired member's return to work;
  - 6. The intent of the retired member's employment reflected as:
    - a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
    - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
  - 7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to submit the Working After Retirement form to the Employer and submit any additional Working After Retirement forms to the Employer as required.

- F. Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- G. By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.
- H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- I. If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.

**Historical Note**

Former Rule, Retirement System Regulation 3; Former Section R2-8-17 renumbered as Section R2-8-117 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). New Section made by final rulemaking at 23 A.A.R. 209, effective March 5, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-118. Application of Interest Rates**

- A. Application of interest from inception of the ASRS Plan through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Investment Earnings Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death
7-1-1953	2.50%	2.50%
7-1-1959	3.00%	3.00%
7-1-1966	3.75%	3.75%
7-1-1969	4.25%	4.25%
7-1-1971	4.75%	4.75%
7-1-1975	5.50%	5.50%
7-1-1976	6.00%	5.50%
7-1-1981	7.00%	5.50%
7-1-1982	7.00%	7.00%
7-1-1984	8.00%	8.00%
7-1-2005	8.00%	4.00%
7-1-2013	8.00%	2.00%
7-1-2018	7.50%	2.00%

- B. At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The balance on which interest is credited includes:
  - 1. Employer and employee contributions;
  - 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

3. Amounts credited by transfer under 2 A.A.C. 8, Article 11; and
  4. Interest credited in previous years.
- C. Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the member's retirement date.

**Historical Note**

Former Rule, Retirement System Regulation 4; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-18 renumbered and amended as Section R2-8-118 effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-119. Expired****Historical Note**

Former Rule, Retirement System Regulation 5; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-19 renumbered and amended as Section R2-8-119 effective May 21, 1982 (Supp. 82-3). Section R2-8-119 and Appendix A and B expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**R2-8-120. Repealed****Historical Note**

Former Rule, Social Security Regulation 6; Amended effective June 19, 1975 (Supp. 75-1). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-20 renumbered and amended as Section R2-8-120 effective May 21, 1982 (Supp. 82-3). Repealed effective July 24, 1985 (Supp. 85-4). New Section made by final rulemaking at 20 A.A.R. 2236, effective October 4, 2014 (Supp. 14-3). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Repealed by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice**

- A. Upon calculating an unfunded liability amount under A.R.S. § 38-748, the ASRS shall send an Unfunded Liability Invoice to the Employer through the Employer's secure ASRS account.
- B. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-748, shall remit full payment of the unfunded liability amount within 90 days of being notified of the unfunded liability pursuant to subsection (A).
- C. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount within 90 days of being notified of the unfunded liability amount, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- D. The ASRS may collect any unfunded liability and interest amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

**Historical Note**

Former Rule, Retirement System Regulation 7; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-21 renumbered as Section R2-8-121 without change effective May 21, 1982 (Supp. 82-3). Amended subsection (A) effective May 30, 1985 (Supp. 85-3). Section repealed by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (05-1). New Section made by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

**R2-8-122. Remittance of Contributions**

- A. Each Employer shall remit the amount of employee member contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- B. Each Employer shall remit the amount of employer contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- C. Each Employer shall remit contributions pursuant to this Section based on the contribution rate in effect on the pay period end date.
- D. Each Employer shall certify on each payroll that each employee included on that payroll has met the requirements for active member eligibility and that all contributions to be remitted are for eligible compensation under A.R.S. § 38-711.
- E. If an Employer improperly certifies that an employee has met the requirements for active member eligibility and that all contributions remitted for the employee are eligible for compensation under subsection (D), the ASRS may charge the employer an unfunded liability amount under A.R.S. § 38-748.

**Historical Note**

Former Rule, Retirement System Regulation 8; Amended effective Dec. 8, 1978 (Supp. 78-6). Former Section R2-8-22 renumbered as Section R2-8-122 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 371, effective April 11, 2020 (Supp. 20-1). Section amended by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

**R2-8-123. Actuarial Assumptions and Actuarial Value of Assets**

- A. For the purposes of this Section, "market value" means an estimated monetary worth of an asset based on the current demand for the asset and the amount of that type of asset available for sale.
- B. The Board adopts the following actuarial assumptions and asset valuation method:
  1. The interest and investment return rate assumptions are determined by the Board.
  2. The actuarial value of assets equals the market value of assets:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. Minus a 10-year phase-in of the excess for years in which actual investment return exceeds expected investment return; and
- b. Plus a 10-year phase-in of the shortfall for years in which actual investment return falls short of expected investment return.

**Historical Note**

Adopted effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Amended effective December 20, 1977 (Supp. 77-6). Former Section R2-8-23 renumbered and amended as Section R2-8-123 effective May 21, 1982 (Supp. 82-3). Emergency amendments effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent amendments adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1006, effective February 24, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking renewed at 9 A.A.R. 3963, effective August 21, 2003 for a period of 180 days (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 20 A.A.R. 3043, effective January 3, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

**Table 1. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 1 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 2. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amend-

ments to Table 2 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 3. Repealed****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 3 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Table 3 repealed; new Table 3 renumbered from Table 4 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 3A. Expired****Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 3B. Expired****Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 4. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 4 renumbered as Table 3 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 4A. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 4B. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 4C. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 5. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 5 repealed, new Table 5 adopted by emergency action effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Table 5 repealed, new Table 5 adopted by regular rulemaking action effective September 12, 1997 (Supp. 97-3). Table 5 repealed; new Table 5 renumbered from Table 6 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 5 renumbered to Table 6; new Table 5 made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 6. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Former Table 6 renumbered to Table 5; new Table 6 renumbered from Table 7 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp.

03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 6 renumbered to Table 7; new Table 6 renumbered from Table 5 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 7. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Renumbered to Table 6 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table 7 renumbered from Table 6 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations**

- A. The following definitions apply to this Section unless otherwise specified:
1. "Compensation" means the same as in A.R.S. § 38-711(7).
  2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).
- B. An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and
  2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:
    - a. The member's full name;
    - b. The member's date of birth; and
    - c. The member's current Compensation;
- C. The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.
- D. If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- E. Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. The member's full name;
  2. The member's date of birth;
  3. The member's Compensation at termination;
  4. The date the member terminated employment; and
  5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.
- F. Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.
- G. If the ASRS calculates an unfunded liability of less than \$0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.
- H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.
- I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).
- Historical Note**
- Adopted as an emergency effective August 25, 1975 (Supp. 75-1). Former Section R2-8-24 renumbered as Section R2-8-124 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).
- R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations**
- A. The following definitions apply to this Section unless otherwise specified:
1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).
  2. "Baseline salary" means a member's Average Monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:
    - a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and
    - b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).
3. "Compensation" means the same as in A.R.S. § 38-711(7).
4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.
5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:
- a. A change in the employee's primary job responsibilities; and
  - b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and
  - c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.
6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.
7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this Section, each agency, board, commission, and department of the State of Arizona shall be considered a separate Employer.
8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).
- B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation for each consecutive 12 months of Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.
- C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.
- D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:
1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.
- E.** Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).
- F.** The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.
- G.** If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.
- H.** If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).
- I.** In consultation with the ASRS actuary, the ASRS shall use a determination under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.
- J.** Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).
- K.** An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- L.** Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- M.** The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).
6. "Joint and survivor retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
7. "Legal documentation" means:
- One document issued from a United States government entity; or
  - Two documents issued from one or more federal, state, local, sovereign, medical, or religious institution.
8. "LTD" means the same as in R2-8-301.
9. "Irrevocable PDA" means the same as in R2-8-501.
10. "On File" means the same as in R2-8-115.
11. "Original retirement date" means the later of:
- The date a member retires from the ASRS for the first time; or
  - The date a member re-retires from the ASRS after returning to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C).
11. "Period certain and life annuity retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).
12. "Spouse" means the individual to whom a member is married under Arizona law.
13. "Straight life annuity" means the same as monthly life annuity according to A.R.S. § 38-757.
- B.** A member may retire from the ASRS by submitting a Retirement Application to the ASRS that contains the following information:
- The member's full name;
  - The member's Social Security number or U.S. Tax Identification number;
  - The member's marital status, if not On File with ASRS;
  - The member's current mailing address; if not On File with ASRS;
  - The member's date of birth, if not On File with ASRS;
  - A retirement date according to A.R.S. § 38-764(A);
  - The retirement option the member is electing;
  - If the member is electing to roll over a lump sum distribution amount to another retirement account, then:
    - The type of account and account number, if applicable, to which the member is electing to roll over the lump sum distribution; and
    - The name and address of the financial institution of the account to which the member is electing to roll over the lump sum distribution;
  - The following information for each primary beneficiary, unless the member is receiving a mandatory lump sum distribution under subsection (M):
    - The beneficiary's full name;
    - The beneficiary's Social Security number, if the beneficiary is a U.S. citizen;
    - The beneficiary's date of birth;
    - The beneficiary's relationship to the member; and
    - The percent of benefit the beneficiary may receive upon death of the member, if the member is designating more than one beneficiary.
  - Whether the member is electing the Optional Health Insurance Premium Benefit;
  - The following spousal consent information, if the member is married and is electing a retirement option other than a Joint and Survivor Retirement Benefit Option with at least 50% of the retirement benefit designated to the member's spouse:
    - Whether the member's spouse consents to the member making a beneficiary election that provides the

**Historical Note**

Adopted as an emergency effective July 30, 1975 (Supp. 75-1). Former Section R2-8-25 renumbered as Section R2-8-125 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

**R2-8-126. Retirement Application**

- A.** For the purposes of this Section, the following definitions apply, unless stated otherwise:
- "Acceptable documentation" means any written request containing all the accurate, required information, dates, and signatures necessary to process the request.
  - "Acceptable form" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
  - "Applicable retirement date" means the later of:
    - The date a member retires from the ASRS for the first time; or
    - The date a member re-retires from the ASRS after returning to active membership.
  - "Conservator" means the same as in A.R.S. § 14-7651.
  - "DRO" means the same as in R2-8-115.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- member's spouse with less than 50% of the member's account balance;
- b. Whether the member's spouse consents to the member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
  - c. The member's spouse's full name; and
  - d. The member's spouse's notarized signature;
12. Whether the member is electing to receive a partial lump sum distribution according to A.R.S. § 38-760 and if so:
    - a. How many months of annuity, up to 36 months, the member is electing to receive as a partial lump sum;
    - b. Whether the member is electing to directly receive the partial lump sum distribution reduced by applicable tax withholding amounts;
    - c. Whether the member is electing to roll over all or a portion of the partial lump sum distribution amount to one other retirement account; and
    - d. Whether the member is electing to use the partial lump sum distribution to purchase service credit with ASRS based on a service purchase request dated before January 6, 2013;
  13. Acknowledgement of the following statements of understanding:
    - a. The member is aware of the member's LTD stop-payment date and any disability benefits the member is receiving shall cease upon the retirement date the member elects according to subsection (B)(6);
    - b. The member understands that if an overpayment exists, ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with ASRS LTD claims administrator shall cease;
    - c. The member understands that if the member is submitting written notice of a changed retirement date, benefit option, or partial lump sum increment selection, ASRS shall distribute the member's benefit as of the later of:
      - i. The date ASRS receives the most recent Acceptable Documentation; or
      - ii. The retirement date contained in the most recent Acceptable Documentation.
    - d. The member has received the Special Tax Notice Regarding Plan Payments;
    - e. The member has received the Return to Work information and will comply with the laws and rules governing the member's return to work;
    - f. The member authorizes ASRS and the banking institution identified in subsection (W) to debit the member's account for the purposes of correcting errors and returning any payments inadvertently made after the member's death;
    - g. The member understands that the member may have a one-time option to rescind a Joint and Survivor Retirement Benefit Option or a Period Certain and Life Annuity Retirement Benefit Option according to R2-8-130;
    - h. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
    - i. The member acknowledges that the member has complied with A.R.S. §§ 38-755 and 38-776 regarding spousal consent; and
  14. The member's notarized signature.
- E. If a Retirement Application is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(14).
  - D. If the retirement date the member elects according to subsection (B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.
  - E. A member who elects to roll over all or a portion of the partial lump sum distribution amount according to subsection (B)(12)(c), shall submit the following written information to the ASRS:
    1. The type of account and account number to which the member is electing to roll over;
    2. The name and address of the financial institution of the account to which the member is electing to roll over; and
    3. If the member is electing to roll over a portion of the partial lump sum distribution, then the amount the member is electing to roll over.
  - F. If the member elects to roll over all or a portion of their lump sum or partial lump sum distribution, the ASRS shall only roll over the distribution to one retirement account.
  - G. Any portion of the partial lump sum distribution that is not rolled over to another retirement account according to subsection (B) shall be distributed directly to the member.
  - H. If the member elects to use the partial lump sum distribution to purchase service credit according to subsection (B)(12)(d) the member shall submit the following written information to the ASRS:
    1. The number of the service purchase invoice;
    2. Whether the member is electing to apply the partial lump sum distribution to all eligible service on that invoice;
    3. If the member is not electing to apply the partial lump sum distribution to all eligible service on that invoice, then:
      - a. The amount of the partial lump sum distribution to be applied to that invoice; or
      - b. The number of years on that invoice the member is electing to purchase with the partial lump sum distribution;
    4. If the member is electing to make a payment on that service purchase invoice with after-tax payments, a rollover, or termination pay according to A.R.S. § 38-747;
    5. Whether the member is electing to authorize the ASRS to increase the number of months of annuity, not to exceed 36 months, to purchase the eligible service on that service purchase invoice, if the member elected an insufficient number of months of annuity to receive as a partial lump sum according to subsection (G) to complete the service purchase invoice;
    6. If the member does not have eligible service to purchase on that invoice, whether the member is electing to cancel the member's election to receive a partial lump sum distribution.
  - I. A member who elects to receive a partial lump sum distribution shall receive an actuarially reduced annuity retirement benefit according to A.R.S. § 38-760.
  - J. ASRS shall disburse any partial lump sum amount that is not applied to a service purchase invoice according to subsection (G) directly to the member after withholding applicable taxes.
  - K. After submitting a Retirement Application according to subsection (B), a member may make changes to the member's Retirement Application by submitting written notice to the ASRS of the specific changes according to A.R.S. § 38-764(H).
  - L. If ASRS has received contributions for the member within the three years immediately preceding the member's retirement

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

date, the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer. If ASRS has received contributions for the member within the six months immediately preceding the member's retirement date and the member shall receive a one-time lump sum payment according to subsection (P), the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer.

- M.** If the member has reached the age for minimum required distribution according to A.R.S. § 38-775(H)(4), the ASRS shall send a New Retirement Ending Payroll Verification form to the member's most recent Employer.
- N.** The Employer shall submit the completed New Retirement Ending Payroll Verification form to ASRS with the following information:
1. The member's Termination date or last day of ASRS membership with that Employer, if applicable;
  2. The member's total salary paid during their last fiscal year;
  3. The member's compensation for the last pay period;
  4. The name and title of the authorized Employer representative;
  5. Certification by the authorized Employer representative that:
    - a. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
    - b. The authorized Employer representative certifies that they are the Employer user named on the New Retirement Ending Payroll Verification form and their title and contact information is current and correct.
- O.** The ASRS shall cancel a member's Retirement Application if ASRS does not receive all forms and information required under this Section within six months immediately after the member's retirement date.
- P.** As authorized under A.R.S. § 38-764(F), if a member's Straight Life Annuity, after any applicable early retirement reduction factor, is less than a monthly amount of \$100, the ASRS shall not pay the annuity. Instead, the ASRS shall make a one-time mandatory lump sum payment in the amount determined by using appropriate actuarial assumptions.
- Q.** For purposes of calculating a member's retirement benefit according to A.R.S. §§ 38-758 and 38-759, ASRS shall calculate age to the nearest day as of the member's retirement date.
- R.** Based on the retirement option the member elects according to A.R.S. § 38-760, the ASRS shall calculate a member's actuarially reduced benefits, based on the attained age of the member, and if necessary, the attained age of the contingent annuitant as of the date of the member's retirement as follows:
1. For a partial lump sum retirement benefit option, ASRS shall calculate age to the nearest day as of the member's retirement date;
  2. For a Joint and Survivor Retirement Benefit Option, ASRS shall calculate age to the nearest day as of the member's retirement date; and
  3. For a mandatory lump sum payment according to subsection (O) or a Period Certain and Life Annuity Retirement Benefit Option, ASRS shall calculate age to the nearest full month in addition to calculating age according to subsection (P) as necessary.
- S.** If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- T.** If a member does not retire by the date minimum distribution payments are required according to A.R.S. §§ 38-759 and 38-775, the required minimum distribution payments will accrue interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) and in effect on the date the required minimum distribution payments should have begun.
- U.** The ASRS shall distribute any required minimum distribution payments with interest according to subsection (T) with the member's first finalized benefits payment.
- V.** If a member submits a retirement application after the member's minimum required distribution date, the ASRS shall determine that the member's Applicable Retirement Date is the date the required minimum distribution payments should have begun.
- W.** Notwithstanding any other Section, an inactive member who does not have contributions related to compensation is not eligible for retirement.
- X.** The ASRS shall issue a debit benefit card, if the annuitant does not provide the following direct deposit information through the annuitant's secure ASRS account or by a notarized Direct Deposit form:
  1. The member's full name;
  2. The member's bank account routing number;
  3. The member's bank account number; and
  4. The type of the account.
- Y.** The ASRS shall disburse benefits payments according to subsection (R), only retroactive to the later date specified in A.R.S. § 38-759(B).
- Z.** ASRS shall not issue additional estimate checks to a member whose retirement is canceled.

**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-26 renumbered and amended as Section R2-8-126 effective May 21, 1982 (Supp. 82-3). Amended subsections (A) through (D) effective October 18, 1984 (Supp. 84-5). Amended subsections (A) through (D) effective July 24, 1985 (Supp. 85-4). Amended by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 19 A.A.R. 332, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 22 A.A.R. 3081, effective December 3, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-127. Re-Retirement Application**

- A.** The definitions in R2-8-126 apply to this Section.
- B.** If a member has previously retired from ASRS, the member may re-retire from ASRS by submitting a Re-Retirement Application to the ASRS that contains:
  1. The information identified in R2-8-126(B)(1) through (B)(8);

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The retirement option the member is electing, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  3. The information identified in R2-8-126(B)(11);
  4. Whether the member is electing the Optional Health Insurance Premium Benefit, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  5. The information identified in R2-8-126(B)(13), if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  6. Acknowledgement of the following statements of understanding:
    - a. The member's signature confirms the member's intent to re-retire and applies to all the sections included in the Re-Retirement Application.
    - b. The member understands that as a re-retiree, the member must keep the same retirement option and beneficiary the member elected when the member previously retired from ASRS, unless the member returned to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C);
    - c. The member may change the member's beneficiary after re-retiring and changing the beneficiary may change the member's monthly annuity;
    - d. The member has complied with A.R.S. §§ 38-755 and 38-766 regarding spousal consent;
    - e. The member certifies that the member has read and understands the instructions and Special Tax Notice Regarding Plan Payments;
    - f. The member authorizes ASRS and the banking institution the member listed for direct deposit to debit the member's account for the purpose of correcting errors and returning any payments inadvertently paid after the member's death;
    - g. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
    - h. The member understands that if an overpayment exists, the ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with the ASRS LTD claims administrator shall cease.
  7. The member's notarized signature.
- C. If the retirement date the member elects according to R2-8-126(B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-128. Joint and Survivor Retirement Benefit Options**

- A. The definitions in R2-8-126 apply to this Section.
- B. A member who is ten years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 100% Joint and Survivor Retirement Benefit Option.
- C. A member who is 24 years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible

to elect a 66 2/3% Joint and Survivor Retirement Benefit Option.

- D. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (B), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% Joint and Survivor Retirement Benefit Option, if:
  1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  2. The member submits an original or certified copy of a DRO to ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- E. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (C), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% Joint and Survivor Retirement Benefit Option, if:
  1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  2. The member submits an original or certified copy of a DRO to the ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- F. Notwithstanding any other Section, for purposes of determining whether a member is eligible to participate in a Joint and Survivor Retirement Benefit Option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant. For purposes of this Section, a contingent annuitant must be a living person.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-129. Period Certain and Life Annuity Retirement Options**

- A. The definitions in R2-8-126 apply to this Section.
- B. An individual who is 104 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option.
- C. An individual who is 93 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with ten years certain or 15 years certain.
- D. An individual who is 85 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with 15 years certain.
- E. The ASRS shall calculate the period certain term as beginning on the first day of the first full calendar month following the member's Applicable Retirement Date.
- F. Notwithstanding subsection (E), the ASRS shall calculate the period certain term as beginning on the member's Applicable Retirement Date if the member's Applicable Retirement Date is the first day of the month.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant**

- A. The definitions in R2-8-126 apply to this Section.
- B. According to A.R.S. § 38-760(B)(2), for a member whose Original Retirement Date is after August 9, 2001, upon the expiration of a member's period certain term the ASRS shall rescind the member's election and the ASRS shall provide the member a Straight Life Annuity retirement benefit subject to

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- any retirement reductions applicable at the member's Original Retirement Date.
- C.** According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is after August 9, 2001 and before July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term.
- D.** According to A.R.S. § 38-760(B)(1), a member whose Original Retirement Date is before July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the member's death.
- E.** A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term if the member provides proof to ASRS of the death of the primary beneficiary or an original or certified copy of a DRO showing that the primary beneficiary has ceased to be a primary beneficiary.
- F.** A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the death of the member if the member provides proof to ASRS of the death of the contingent annuitant or an original or certified copy of a DRO showing that the contingent annuitant has ceased to be a contingent annuitant.
- G.** A member who elected to rescind a Period Certain and Life Annuity Retirement Benefit Option according to subsection (C) may elect to revert to the Period Certain and Life Annuity Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- H.** A member who elected to rescind a Joint and Survivor Retirement Benefit Option according to subsection (D) may elect to revert to the Joint and Survivor Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- I.** A member may only revert to the same Period Certain and Life Annuity Retirement Benefit Option the member rescinded according to subsection (C) prior to the expiration of the period certain term the member elected at the member's most recent retirement.
- J.** A member who rescinds their election according to subsections (E) or (F) is not eligible to revert to a Period Certain and Life Annuity Retirement Benefit Option or a Joint and Survivor Retirement Benefit Option.
- K.** Notwithstanding any other provision, the time period of a Period Certain and Life Annuity Retirement Benefit Option shall be continuous from the member's retirement date until the term expires regardless of whether the member rescinds or reverts to another retirement option.
- L.** A member who wants to rescind or revert a retirement election according to subsections (C) through (H) shall ensure ASRS receives an Application to Rescind, Revert or Change Contingent Annuitant at least one day prior to the member's death.
- M.** In order to rescind, revert, or change a contingent annuitant, the member shall submit an Application to Rescind, Revert or Change Contingent Annuitant with the following information:
1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The member's marital status, if not On File with ASRS;
4. Whether the member is electing to rescind, revert, or change a contingent annuitant;
  5. The member's notarized signature acknowledging the following statements of understanding:
    - a. For rescinding a retirement election:
      - i. By this action, and the member's signature, the member is aware that the member's designated beneficiary or contingent annuitant will not continue with monthly benefits after the member's death;
      - ii. The member is aware that a certified copy of the member's designated beneficiary's or contingent annuitant's death certificate or an original or certified copy of a DRO is required if the member retired or re-retired on or after July 1, 2008;
      - iii. At the time of the member's death, if the ASRS has not disbursed the total employee contributions on the member's account, plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, the balance will be payable in a lump sum to the beneficiary named on the member's most recent Acceptable Form.
    - b. For changing a contingent annuitant or beneficiary:
      - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named on the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
      - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of the contingent annuitant's Legal Documentation is required and the member's benefit will be recalculated based on the member's age and the age of the member's new contingent annuitant as of the effective date of the member's request according to this Section;
      - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
      - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
    - c. For reverting to a previously elected retirement benefit option according to A.R.S. § 38-760:
      - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
      - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of Legal Documentation showing the contingent annuitant's date of birth is required and the member's benefit will be recalculated based on the member's age and the age of the member's

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- contingent annuitant as of the effective date of the member's request according to this Section;
- iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
  - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
- 6. If the member is electing to change a contingent annuitant, the following information for the new contingent annuitant:
    - a. Full name;
    - b. Social Security number, if the contingent annuitant is a U.S. citizen;
    - c. Date of birth; and
    - d. Legal relationship to the member.
  - 7. If the member is married, whether the member's spouse consents to the following with the spouse's notarized signature:
    - a. The member making a beneficiary designation that provides the member's spouse with less than 50% of the member's account balance;
    - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option; or
    - c. The member changing or ending the spouse's contingent annuitant status.
  - 8. Whether the spouse's consent is not required because:
    - a. The spouse predeceased the member and if so, provide a copy of the spouse's death certificate; or
    - b. The member is divorced and if so, provide an original or certified copy of a DRO.
  - N. If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
  - O. The effective date of the member's request according to this Section is the date on which ASRS receives the Application to Rescind, Revert or Change Contingent Annuitant.
  - P. According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is on or after July 1, 2008 and who elects a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election according to subsection (E) and elect to receive a Straight Life Annuity prior to the expiration of the member's period certain term if one or more of the member's primary beneficiaries dies or ceases to be a beneficiary according to the terms of an original or certified copy of a DRO.
  - Q. The ASRS shall cancel a member's Application to Rescind, Revert, or Change Contingent Annuitant if ASRS does not receive all forms and information required under this Section within six months immediately after the ASRS receives the application.
- Historical Note**
- New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
- R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation**
- A. The definitions in R2-8-126 apply to this Section.
  - B. In order to designate a beneficiary, a member shall submit an Acceptable Form containing the following information:
    - 1. The Member's full name and one or more of the following information:
      - a. The Member's Social Security number or U.S. Tax Identification number; or
      - b. The Member's address; or
      - c. The Member's date of birth;
    - 2. The following information for the beneficiary:
      - a. The full name of the person or entity the member is designating as beneficiary;
      - b. Whether the beneficiary is being designated as primary or secondary beneficiary;
      - c. The percentage of the benefit the member is allocating to the beneficiary; and
    - 3. The member's notarized signature.
  - C. If a change in a designated beneficiary is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(3).
  - D. If a member submits an Acceptable Form designating a beneficiary without indicating the percentage of the benefit the member is allocating to the beneficiary, the ASRS shall determine that each beneficiary is designated to receive an equal amount of the benefit.
  - E. Effective July 1, 2013, a married member:
    - 1. Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50% of the member's retirement account unless:
      - a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
      - b. The spouse consents to an alternate beneficiary;
    - 2. Who retires shall choose a Joint and Survivor Retirement Benefit Option and name the member's current spouse as contingent annuitant unless:
      - a. Naming or maintaining the current spouse as contingent annuitant violates another law, existing contract, or court order; or
      - b. The spouse consents to an alternate contingent annuitant; or
      - c. The spouse consents to an alternate annuity option under A.R.S. §§ 38-757 or 38-760.
  - F. The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (E).
  - G. Subsection (E) does not apply to a member who is receiving a mandatory lump sum distribution according to A.R.S. § 38-764.
  - H. Subsection (E) does not apply to a member who submits a Spousal Consent Exception form that contains the member's notarized signature to the ASRS affirming under penalty of perjury that the member's spouse's consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).
  - I. In order to change a beneficiary designation, a member shall submit the information contained in subsection (B) and:
    - 1. A married member who changes a beneficiary designation on or after July 1, 2013, shall ensure the new beneficiary designation is consistent with subsection (E); or
    - 2. A married member who retired before July 1, 2013, and who wishes to change the contingent annuitant or beneficiary, shall ensure that the new designation is consistent with subsection (E).
  - J. A married member who re-retires according to A.R.S. § 38-766:
    - 1. Within less than 60 consecutive months of active membership from the member's previous retirement date, is not eligible to elect a different annuity option or different beneficiary than the member elected at the time of the previous retirement; or

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. At least 60 consecutive months of active membership after the member's previous retirement date, may elect a different annuity option and different beneficiary than the member elected at the time of the previous retirement, and the election shall comply with subsection (E).
- K.** If a married member submits a retirement application that fails to comply with subsection (E), the member shall submit a new retirement application or written notice of new retirement elections that comply with subsection (E) within six months of the member's Original Retirement Date. The member's new Original Retirement Date is the date ASRS receives the new application or written notice unless the member elects a later date according to A.R.S. § 38-764.
- L.** If a married member made a beneficiary designation on or after July 1, 2013 that is not consistent with the requirements specified in subsection (E), the ASRS shall, at the time of the member's death:
1. Notify both the spouse and designated beneficiary and:
    - a. Provide the spouse with an opportunity to waive the right under subsection (E); and
    - b. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (E); and
  2. Designate 50% of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond to notification according to subsection (L)(1) within 30 days after notification.
- M.** If a married member designated a beneficiary before July 1, 2013 that does not comply with subsection (E), upon the death of the member, the member's spouse may submit written notice to the ASRS prior to disbursement of the member's account with the following information:
1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The spouse's assertion to the spouse's right to community property;
  4. An original or copy of the marriage certificate; and
  5. An original or certified copy of the member's death certificate.
- N.** If a spouse submits written notice according to subsection (M), the ASRS shall designate the spouse as beneficiary of a percentage of the member's account according to A.R.S. §§25-211 and 25-214 and notify the member's designated beneficiary of the spouse's assertion.
- O.** The ASRS shall determine a spouse's percentage of the member's account according to subsection (L) based on the amount of service credit the member acquired during the marriage divided by the total amount of service credit the member acquired, multiplied by 50%.
- P.** If a beneficiary is notified of a spouse's assertion according to subsection (N), then before ASRS disburses a survivor benefit, the beneficiary may notify ASRS of the beneficiary's intent to appeal the spouse's right to a survivor benefit.
- Q.** Within 30 days, a beneficiary who has notified ASRS of the beneficiary's intent to appeal a survivor benefit disbursement according to subsection (P), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- R.** An original or certified copy of a DRO may supersede the requirements in subsection (B).
- S.** To consent to an alternative retirement benefit option or beneficiary designation, a member's spouse shall complete and have notarized a Spousal Consent form containing the following information:
1. Member's full name;
  2. Member's Social Security number or U.S. Tax Identification number;
  3. Whether the member's spouse is consenting to one or more of the following:
    - a. The member making a beneficiary designation that provides the spouse with less than 50% of the member's account balance;
    - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
    - c. The member naming a contingent annuitant other than the spouse; and
    - d. The spouse's notarized signature.
- T.** A member's spouse may revoke the spouse's consent to an alternative retirement benefit option or beneficiary designation by sending written notice to ASRS with the following information:
1. The member's full name
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The spouse's full name;
  4. The spouse's dated signature indicating the spouse is revoking all previous Spousal Consent forms.
- U.** A spouse who is revoking a Spousal Consent form shall ensure the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-132. Survivor Benefit Options**

- A.** The definitions in R2-8-126 apply to this Section.
- B.** If the beneficiary is eligible to elect the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits based on the attained age of the beneficiary, calculated to the nearest full month, as of the date of the member's death.
- C.** If the beneficiary elects to receive the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits effective date as of the day after the member's death and the ASRS shall pay interest up to the benefits effective date.
- D.** According to A.R.S. § 38-763, if the member elected a Period Certain and Life Annuity Retirement Benefit Option and deceases prior to the expiration of the period certain term, the member's beneficiary may elect to complete the remaining period certain term or the beneficiary may elect to receive a lump sum distribution which is the greater of:
1. The present value of the benefits based on the remaining period certain term; or
  2. The member's ASRS account balance plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member.
- E.** Notwithstanding subsection (D), a beneficiary is not eligible to elect to complete the remaining period certain term if the period certain term has expired.
- F.** If the beneficiary elects to complete the remaining period certain term or elects to receive a lump sum that is the present value of the benefits based on the remaining period certain term according to subsection (D), the ASRS shall not pay interest.
- G.** If a member's beneficiary or contingent annuitant does not want to receive a survivor benefit according to 26 U.S.C. § 2518, within nine months after the member's death, the benefi-

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ciary or contingent annuitant may submit a written request to the ASRS with the following information for the beneficiary or contingent annuitant:

1. Full name;
  2. Social Security number if the beneficiary or contingent annuitant is a U.S. citizen;
  3. Address; and
  4. Notarized signature acknowledging the following statements:
    - a. The beneficiary or contingent annuitant is aware that, as a beneficiary or contingent annuitant of the member, the beneficiary or contingent annuitant is entitled to a survivor benefit in the amount specified by the ASRS;
    - b. The beneficiary is renouncing a portion or all of the beneficiary's rights to the member's benefit;
    - c. The contingent annuitant is renouncing all of the contingent annuitant's rights to the member's benefit;
    - d. The beneficiary understands that by renouncing rights to the member's benefit, the portion that the beneficiary is renouncing will be paid to any other survivor on the member's account, or if there is no other designated survivor, the benefit will be paid to the member's estate; and
    - e. The contingent annuitant understands that by renouncing rights to the member's benefit, the ASRS shall pay the member's ASRS account balance plus interest at the Assumed Actuarial Interest and Investment Return Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member, to any other survivor on the member's account, or if there is no other designated survivor, to the member's estate.
- H.** According to 26 U.S.C. § 2518, a minor beneficiary's or contingent annuitant's survivor benefit cannot be renounced.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-133. Survivor Benefit Applications**

- A.** The definitions in R2-8-126 apply to this Section.
- B.** The ASRS shall not distribute a survivor benefit until a claimant notifies the ASRS of a member's death by telephone or submission of a death certificate, unless the member elected a Joint and Survivor Benefit Option upon retirement.
- C.** Upon notification of the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, Acceptable Form that is On File with the ASRS that was received at least one day prior to the date of the member's death, unless otherwise provided by law.
- D.** The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall provide the following:
  1. An original certified death certificate or a certified copy of a court order that establishes the member's death;
  2. If the claimant is not a designated beneficiary, but is a person specified in A.R.S. § 38-762(E), a copy of a document issued from a federal, state, local, sovereign, or medical institution showing the claimant's relationship to the deceased member;
  3. A certified copy of the court order of appointment as administrator, if applicable; and
  4. Except if the deceased member was retired and elected the joint and survivor option, complete and have nota-

rized an Application for Survivor Benefits, provided by the ASRS that includes:

- a. The deceased member's full name,
- b. The deceased member's Social Security number or U.S. Tax Identification number,
- c. The benefit the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing;
- d. If the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing to roll over a benefit, the following information:
  - i. The claimant's full name;
  - ii. The name of the institution to which the claimant is electing to roll over;
  - iii. The address of the institution to which the claimant is electing to roll over;
  - iv. The full name of the authorized representative of the institution to which the claimant is electing to roll over;
  - v. The signature of the authorized representative of the institution to which the claimant is electing to roll over;
- e. If the beneficiary is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
  - i. Whether the bank account is a checking or savings account;
  - ii. The name of the banking institution to which the benefit is being sent;
  - iii. The routing number;
  - iv. The account number; and
- f. The following information for the designated beneficiary or other person specified in A.R.S. § 38-762(E):
  - i. Full name;
  - ii. Mailing address, if not On File with ASRS;
  - iii. Date of birth, if applicable; and
  - iv. Social Security number or U.S. Tax Identification number, if not On File with ASRS.
- g. The following statements of understanding:
  - i. The designated beneficiary or other person specified in A.R.S. § 38-762(E) has read and understands the Special Tax Notice Regarding Plan Payments they received with this application;
  - ii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit;
  - iii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death;
  - iv. Under penalties of perjury, the designated beneficiary or other person specified in A.R.S. § 38-762(E) certifies that:
    - (1) The Social Security number or U.S. Tax Identification number shown on this application is correct;
    - (2) They are not subject to backup withholding because:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- (a) They are exempt from backup withholding, or
  - (b) They have not been notified by the Internal Revenue Service that they are subject to backup withholding as a result of a failure to report all interest or dividends, or
  - (c) The Internal Revenue Service has notified them that they are no longer subject to backup withholding; and
  - (3) They are a legal resident of the United States, unless they are an estate or trust.
  - v. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands their right to a 30-day notice period to consider a rollover or a cash distribution and they elect to waive the notice period by their election for payment on this application;
  - vi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to another eligible retirement plan, it is their responsibility to verify that the receiving plan will accept the rollover and, if applicable, agree to separately account for the taxable and nontaxable amounts rolled over and the related subsequent earnings on such amounts;
  - vii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to an IRA plan, it is their responsibility to verify that the receiving IRA institution will accept the rollover and, if applicable, it is their responsibility to separately account for taxable and nontaxable amounts;
  - viii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to another eligible retirement plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding;
  - ix. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding.
  - xi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, they may be required to receive a minimum distribution and they certify that the date of birth shown on this form is correct.
5. For a member who elected a Joint and Survivor Retirement Benefit Option, a contingent annuitant shall submit a Joint and Survivor Certification form containing:
- a. The following information for the member:
    - i. Full name;
    - ii. Social Security number or U.S. Tax Identification number;
    - iii. Date of death; and
  - b. The following information for the beneficiary:
    - i. Legal relationship to the member;
    - ii. Full name;
    - iii. Social Security number or United States Tax Identification number, if not On File with ASRS;
    - iv. Mailing address, if not On File with ASRS;
    - v. Date of birth, if not On File with ASRS;
    - vi. If the contingent annuitant is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
      - (1) Whether the bank account is a checking or savings account;
      - (2) The name of the banking institution to which the benefit is being sent;
      - (3) The routing number;
      - (4) The account number; and
  - c. The following statements of understanding:
    - i. The contingent annuitant has read and understands the Special Tax Notice Regarding Plan Payments they received with the Joint and Survivor Certification form;
    - ii. The contingent annuitant authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit; and
    - iii. The contingent annuitant authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death.
    - d. The contingent annuitant's notarized signature.
  - E. Notwithstanding R2-8-132(H), if the beneficiary or contingent annuitant is a minor as of the date of the member's death, the beneficiary or contingent annuitant may submit a written request with the information contained in R2-8-132(G)(1) through (4) within nine months after the minor attains 18 years of age.
  - F. For a member who deceases prior to the member's retirement date, if there is no designation of beneficiary or if the designated beneficiary predeceases the member, the ASRS shall pay a survivor benefit as specified in A.R.S. § 38-762(E).
  - G. The ASRS shall begin disbursing a survivor benefit to a contingent annuitant according to A.R.S. § 38-760(B)(1) upon notification and verification of the member's death by a third party.
  - H. The ASRS shall suspend a survivor benefit for a contingent annuitant unless the contingent annuitant provides the information in subsection (D) within two months of the ASRS disbursing a survivor benefit.
  - I. If the member is domiciled in Arizona, according to A.R.S. § 14-3971, and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits an Affidavit for Collection of Personal Property to ASRS with the following:
    - 1. The claimant's name;
    - 2. The claimant's Social Security number or U.S. Tax Identification number;
    - 3. The claimant's mailing address;
    - 4. The member's name;
    - 5. The member's Social Security number or U.S. Tax Identification number;
    - 6. The date of the member's death;
    - 7. The state and county where the member died;
    - 8. Statements indicating:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. According to A.R.S. § 14-3971(B)(2)(a), no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date of the member's death;
- b. According to A.R.S. § 14-3971(B)(2)(b), the personal representative has been discharged, or more than a year has elapsed since a closing statement has been filed and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date the ASRS receives the Affidavit for Collection of Personal Property;
- c. The claimant is the successor of the member and is entitled to the member's personal property because:
- The claimant is named in the member's will; or
  - The member did not have a will and the claimant is entitled to the member's personal property by right of intestate succession according to A.R.S. § 14-2103;
- d. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(i), then a copy of the member's will;
- e. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(ii), then the relationship between the member and the claimant and whether there are other surviving heirs;
- f. If there are other surviving heirs, then the name and relationship of each surviving heir;
- g. A statement indicating the claimant is making the Affidavit for Collection of Personal Property according to A.R.S. § 14-3971 for the purpose of making a claim to the member's ASRS account; and
- h. The claimant's notarized signature.
- J.** If the member is not domiciled in Arizona and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits legal documentation to claim the member's ASRS account that complies with the statutory requirements of the state in which the member was domiciled at the time of the member's death.
- K.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is less than \$10,000 per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's legal guardian submits the following written information:
- The member's full name;
  - The member's Social Security number or U.S. Tax Identification number;
  - The minor beneficiary's full name;
  - The minor beneficiary's Social Security number or U.S. Tax Identification number;
  - The full name of the minor beneficiary's legal guardian;
  - The minor beneficiary's legal guardian's address, if not On File with ASRS; and
  - The minor beneficiary's legal guardian's signature certifying the minor beneficiary's legal guardian has care and custody of the minor beneficiary.
- L.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is \$10,000 or more per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's conservator submits proof of court-appointed fiduciary responsibility for the minor beneficiary.
- M.** The ASRS shall remit payment to the minor beneficiary according to subsection (K) by sending the minor beneficiary's conservator a check, if the document providing proof of the court-appointed fiduciary responsibility requires payment to be made to a restricted or secure account.
- N.** If a person claims that a beneficiary or claimant is not entitled to a survivor benefit, then before ASRS disburses a survivor benefit, the person may notify ASRS of the person's intent to appeal the beneficiary's or claimant's right to a survivor benefit.
- O.** Within 30 days, a person who has notified ASRS of the person's intent to appeal a survivor benefit disbursement according to subsection (N), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- P.** If the ASRS receives documentation from, or confirmed by, a law enforcement agency, that a beneficiary or claimant may be guilty of the felonious and intentional killing of the member, the ASRS shall not distribute any benefits to the beneficiary or claimant that may be guilty of the felonious and intentional killing of the member until the matter has been adjudicated.
- Q.** If the member's estate has an appointed personal representative, the member's estate shall submit a court document identifying the personal representative for the member's estate before ASRS may distribute a survivor benefit.
- R.** If the member's estate is closed, the person claiming a right to the member's ASRS account shall provide a court document proving the estate is closed.
- S.** If the survivor receives a monthly annuity and does not provide the direct deposit information according to subsection (D)(4)(e) or (D)(5)(b)(vi), ASRS shall issue a debit benefit card.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**Table 1. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 1 repealed, new Table 1 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 2. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 2 repealed, new Table 2 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 3. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 3 repealed, new Table 3 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026,

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 4. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 4 repealed, new Table 4 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 5. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 5 repealed, new Table 5 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 6. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 6 repealed, new Table 6 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 7. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 7 repealed, new Table 7 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 8. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 8 repealed, new Table 8 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 9. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 9 repealed, new Table 9 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026,

valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 10. Repealed****Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 10 repealed, new Table 10 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 11. Repealed****Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 11 repealed, new Table 11 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Exhibit A. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 1. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 2. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 3. Repealed**







## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit L, Table 6. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit L, Table 7. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 1. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 2. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 3. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 4. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 5. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 6. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT****R2-8-201. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Coverage" means a medical and/or dental insurance plan a retired member, Disabled member, or beneficiary obtains through the ASRS or an Employer.
2. "Contingent annuitant" means the same as in A.R.S. § 38-711(8) and the person is eligible for Coverage.
3. "Disabled" means the member has a disability and is receiving long-term disability benefits pursuant to A.R.S. § 38-797 et seq.
4. "Family calculation" means the family Coverage premium described in A.R.S. § 38-783(B).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

5. "Joint & survivor" means the annuity option described in A.R.S. § 38-760(B)(1).
  6. "Net premium" means the amount of the Coverage premium reduced by the amount of the Premium Benefit provided by the ASRS.
  7. "On file" means the same as in R2-8-115.
  8. "Original retirement date" means the same as in R2-8-126.
  9. "Optional premium benefit" means the election, upon retirement, to have the Premium Benefit paid on behalf of the member's Contingent Annuitant upon death of the member pursuant to A.R.S. § 38-783.
  10. "Period-certain" means the annuity option described in A.R.S. § 38-760(B)(2).
  11. "Premium benefit" means the amount the ASRS provides on behalf of a retired member or Disabled member in order to offset the Coverage premium of the retired or Disabled member pursuant to A.R.S. § 38-783.
  12. "Single calculation" means the single Coverage premium calculation described in A.R.S. § 38-783(A).
  13. "Subsidized" means the same as in A.R.S. § 38-783(M)(4).
- retired members or Disabled members, is eligible for the greater of:
- a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
  - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
- B. Pursuant to A.R.S. § 38-783(E), a retired member who returns to work with an Employer and elects to maintain Coverage is eligible to receive a Premium Benefit if the member has an Original Retirement Date prior to August 2, 2012.
  - C. Pursuant to A.R.S. § 38-783(E), a Disabled member who elects to maintain Coverage is eligible to receive a Premium Benefit if the Disabled member became Disabled prior to August 2, 2012.
  - D. A member who receives a lump sum distribution from the ASRS upon retirement is eligible to receive a Premium Benefit pursuant to this Article.
  - E. Notwithstanding any other Section, a retired member who has an Original Retirement Date on or after August 2, 2012, or a Disabled member who became Disabled on or after August 2, 2012 is eligible to receive a Premium Benefit pursuant to this Article, only if Coverage is not Subsidized.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-202. Premium Benefit Eligibility and Benefit Determination**

- A. A retired member or Disabled member who has five or more years of service and who elects to maintain Coverage is eligible for a Premium Benefit as follows:
  1. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member only, is eligible for a Single Calculation of the Premium Benefit as described in R2-8-204(A);
  2. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is not a retired member or Disabled member is eligible for a Family Calculation of the Premium Benefit as described in R2-8-204(B).
  3. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is a retired member or Disabled member is eligible for the greater of:
    - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
    - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
  4. A retired member or Disabled member who is enrolled as a dependent on a member's insurance plan is eligible for a Single Calculation of the Premium Benefit described in R2-8-204(A) if:
    - a. The retired member has an Original Retirement Date prior to August 2, 2012; or
    - b. The Disabled member became Disabled prior to August 2, 2012;
  5. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and multiple dependents, some of whom are

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-203. Payment of Premium Benefit**

- A. Every month, the ASRS shall provide a Premium Benefit to the Employer on behalf of a retired member, Disabled member, or Contingent Annuitant who maintains Coverage and is eligible to receive a Premium Benefit pursuant to R2-8-202.
- B. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration or the ASRS, the ASRS shall reduce the retired member's pension amount by the amount of the retired member's Net Premium for Coverage pursuant to this Article, unless the Net Premium exceeds the pension amount.
- C. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the ASRS and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the retired member's insurance company and the ASRS shall:
  1. Not reduce the retired member's pension amount; and
  2. Remit payment of the Premium Benefit to the retired member's insurance company.
- D. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

for remitting the Net Premium to the Arizona Department of Administration and the ASRS shall:

1. Not reduce the retired member's pension amount; and
  2. Remit payment of the Premium Benefit to the Arizona Department of Administration.
- E.** If a Disabled member who is eligible to receive a Premium benefit pursuant to R2-8-202 maintains Coverage with the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the Arizona Department of Administration, unless the Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- F.** If a Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with the ASRS, the ASRS shall remit the Premium Benefit to the Disabled member's insurance company and the Disabled member shall be responsible for remitting the Net Premium to the Disabled member's insurance company.
- G.** If a retired member or Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with an Employer other than the ASRS or the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the retired member's or Disabled member's Employer, unless the retired member or Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- H.** If a retired member or Disabled member is eligible to receive a Premium Benefit pursuant to R2-8-202, the ASRS shall provide the lesser of the following for any one retired member or Disabled member:
1. The actual cost of the Coverage premium; or
  2. The greatest Premium Benefit calculation for which the retired member or Disabled member is eligible pursuant to R2-8-202.
- I.** If a retired member is eligible to receive a Premium Benefit pursuant to R2-8-202 and the member retires from the ASRS in addition to retiring from another State retirement system or plan described in A.R.S. § 38-921, each month, the ASRS shall remit any Premium Benefit for which the retired member is eligible under this Article to the other State retirement system or plan from which the member retired.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

**R2-8-204. Premium Benefit Calculation**

- A.** A Single Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or non-Medicare status.
- B.** A Family Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or Non-Medicare status, and the Medicare or Non-Medicare status of any dependents for which the retired member or Disabled member has obtained Coverage.
- C.** A Contingent Annuitant who is eligible to receive an Optional Premium Benefit pursuant to R2-8-207 shall receive an Optional Premium Benefit amount based on:
1. The retired member's years of service and optional retirement benefit election pursuant to A.R.S. § 38-760; and
  2. The Contingent Annuitant's Coverage and Medicare or non-Medicare status.

- D.** Notwithstanding R2-8-203(H), if a Contingent Annuitant is a retired member, the Contingent Annuitant may be entitled to receive more than one Premium Benefit.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-205. Premium Benefit Documentation**

- A.** Every year, prior to the effective date of Coverage, an Employer shall report to the ASRS all the Coverage plans and premium rates the Employer offers to its retired or Disabled employees.
- B.** An Employer shall inform the ASRS of any changes to the retired member's, Disabled member's, or Contingent Annuitant's Coverage, including enrollment in Coverage, maintained through the Employer within 30 days of the changes taking effect.
- C.** Using the Employer's secure ASRS website account, or another ASRS approved method, an Employer shall submit the following health insurance enrollment, change, and/or deletion information pursuant to subsection (B):
1. The retired member's, Disabled member's, or Contingent Annuitant's Social Security number or U.S. Tax Identification number;
  2. The retired member's, Disabled member's, or Contingent Annuitant's full name;
  3. The retired member's, Disabled member's, or Contingent Annuitant's date of birth;
  4. The Coverage in which the retired member, Disabled member, or Contingent Annuitant is enrolling;
  5. The type of change that is being made to the Coverage;
  6. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
    - a. First and last name;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth; and
    - d. Medicare number, if applicable.
  7. The old and new premium amounts for Coverage;
  8. The effective date of the change, deletion, and/or enrollment;
  9. The Employer's name and telephone number;
  10. A certification by the Employer representative's dated signature that the information is current and correct.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-206. Six-Month Reimbursement Program**

- A.** For a retired member or Disabled member who is eligible for a Premium Benefit pursuant to R2-8-202(A)(4) or (B), the ASRS shall remit the Premium Benefit to the retired member or Disabled member pursuant to subsection (B).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- B. Pursuant to subsection (A), the ASRS shall remit the Premium Benefit to the retired member or Disabled member every six months, payable in July and January. For purposes of this Section, the Premium Benefit shall be the aggregate amounts of the Premium Benefit the retired member or Disabled member is entitled to receive during the previous six months.
- C. In order to receive a Premium Benefit payment pursuant to subsection (B), a retired member or Disabled member shall submit to the ASRS the Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form after the last day of the last month for which the retired member or Disabled member is seeking reimbursement.
- D. The Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form that a retired member or Disabled member submits pursuant to subsection (C) shall include the following information:
1. The retired member's or Disabled member's Social Security number or U.S. Tax Identification number;
  2. The retired member's or Disabled member's full name;
  3. The retired member's or Disabled member's mailing address and phone number;
  4. The retired member's or Disabled member's date of birth;
  5. The retired member's or Disabled member's status with the ASRS;
  6. The retired member's or Disabled member's status with the retired member's or Disabled member's Employer;
  7. The following Coverage information for the Coverage policy holder:
    - a. First and last names;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth;
    - d. Effective date of Coverage;
  8. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
    - a. First and last name;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth;
    - d. Effective date of Coverage;
  9. Six-month reimbursement totals identified by:
    - a. The month and year the premium is due for Coverage;
    - b. The total medical plan premium per month;
    - c. The total dental plan premium per month;
    - d. The employee's out-of-pocket payroll deduction for a medical premium per month;
    - e. The employee's out-of-pocket payroll deduction for a dental premium per month;
    - f. The employee's total out-of-pocket payroll deduction for medical and dental premiums per month;
  10. The Employer's name;
  11. The Employer's phone number;
  12. The Employer's email address;
  13. The name of the Employer's representative; and
  14. The dated signature of the Employer's representative.
- Historical Note**
- New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).
- R2-8-207. Optional Premium Benefit**
- A. A member who retires on or after January 1, 2004 is eligible to elect the Optional Premium Benefit to be effective on the date of the retired member's retirement and may designate a Contingent Annuitant to receive the Optional Premium Benefit upon the death of the retired member if:
1. The retired member elects a retirement option under A.R.S. § 38-760; and
  2. The retired member elects to maintain Coverage.
- B. A retired member who returns to active membership for 60 consecutive months or more before retiring again, may elect or re-elect the Optional Premium Benefit pursuant to subsection (A).
- C. A retired member who does not return to active membership for 60 consecutive months or more before retiring again is not eligible to elect the Optional Premium Benefit pursuant to subsection (A) unless the retired member elected the Optional Premium Benefit to be effective on the date of the retired member's Original Retirement Date.
- D. In order to elect, re-elect, or terminate the Optional Premium Benefit pursuant to subsection (A), the retired member shall submit to the ASRS the Optional Premium Benefit Program Election or Termination form containing the following information:
1. The retired member's Social Security number or U.S. Tax Identification number;
  2. Whether the retired member is electing, declining, or terminating the Optional Premium Benefit;
  3. The following information for the Contingent Annuitant if the retired member is electing or re-electing the Optional Premium Benefit:
    - a. The Social Security number or U.S. Tax Identification number;
    - b. The full name; and
    - c. The date of birth, if not On File; and
  4. Certification of understanding by the retired member's dated signature of the following statements:
    - a. I have a one-time election at the time of retirement for this benefit, and have a retirement date on or after January 1, 2004;
    - b. I must elect a Joint & Survivor or Period-Certain annuity option;
    - c. If I elect to participate, my Contingent Annuitant must be either participating or eligible to participate in my retiree health care plan at the time of my death;
    - d. I must provide proof of birth date for my Contingent Annuitant;
    - e. The Premium Benefit will be actuarially reduced for the remainder of my benefit and my Contingent Annuitant's benefit as long as the Optional Premium Benefit is elected; and
    - f. I may rescind the election at any time and be eligible for the unreduced Premium Benefit payable as provided by law.
- E. In order to elect or re-elect the Optional Premium Benefit, a member shall submit the Optional Premium Benefit Program Election or Termination form to the ASRS prior to the member's Original Retirement Date.
- F. A Contingent Annuitant the retired member designates to receive the Optional Premium Benefit upon the retired member's death is eligible to receive a Premium Benefit if:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. The retired member designates the Contingent Annuitant as the primary beneficiary on the member's retirement account;
  2. The Contingent Annuitant is enrolled in a Coverage plan at the time of the member's death or the Contingent Annuitant enrolls in a Coverage plan within six months of the retired member's death pursuant to A.R.S. § 38-782(A); and
  3. The Contingent Annuitant is eligible to receive at least one monthly payment.
- G.** Upon the death of a retired member who elected the Optional Premium Benefit pursuant to subsection (A), the ASRS shall provide the Optional Premium Benefit on behalf of the retired member's Contingent Annuitant who is eligible to receive the Optional Premium Benefit pursuant to subsection (F).
- H.** Notwithstanding subsection (G), the amount of the Optional Premium Benefit the ASRS provides on behalf of a Contingent Annuitant shall not exceed the actual amount of the Coverage premium.
- I.** Unless otherwise indicated by law, the Optional Premium Benefit shall not terminate upon the death of the retired member if a Contingent Annuitant is eligible for the Optional Premium Benefit pursuant to subsection (F).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**ARTICLE 3. LONG-TERM DISABILITY****R2-8-301. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Attending Physician" means a provider:
  - a. Who is a qualified medical provider or other legally qualified practitioner of a healing art that the claims administrator recognizes or is required by law to recognize;
  - b. Whose medical training and clinical experience are qualified to treat the member's disabling condition;
  - c. Whose diagnosis and treatment is consistent with the diagnosis of the disabling condition, according to guidelines established by medical, research, and rehabilitative organizations;
  - d. Who is licensed to practice in the jurisdiction where care is being given;
  - e. Who is practicing within the scope of the license; and
  - f. Who is not related to the member by blood or marriage.
2. "Direct Care" means the member is actively receiving treatment from a provider for the member's disability at least once per calendar year.
2. "Estimated Social Security disability income amount" means the same as in R2-8-801(2).
3. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.

4. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
5. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).
6. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-302. Application for Long-Term Disability Benefit**

- A.** In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.
- B.** Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.
- C.** Pursuant to A.R.S. § 38-797.07(11), in order to submit an application for an LTD benefit, a member must provide objective medical evidence from an Attending Physician.
- D.** Pursuant to A.R.S. § 38-797.07(7)(b)(i), in order to continue receiving an LTD benefit, the disabled member must be under the Direct Care of a doctor.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-303. Long-Term Disability Calculation**

- A.** The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).
- B.** For a member whose monthly compensation is \$0 as of the date of disability, the ASRS shall pay a monthly benefit of \$50 unless the benefit is reduced pursuant to R2-8-807 or required to be reduced pursuant to A.R.S. § 38-797.07(A)(2).
- C.** The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).
- D.** Notwithstanding any other section, a member who became disabled on or after August 27, 2019, shall not receive a benefit under this article that would increase the member's monthly compensation after disability to an amount that exceeds 100% of the member's monthly compensation before disability.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Amended by final rulemaking at 27 A.A.R. 89, effective March 9, 2021 (Supp. 21-1).

**R2-8-304. Payment of Long-Term Disability Benefit**

- A.** The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

sooner than six months after the date the disabled member became disabled.

- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-305. Social Security Disability Appeal**

- A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.
- B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.
- C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:
  - 1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or
  - 2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.
- D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

**R2-8-306. Approval of Social Security Disability**

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

- 1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or
- 2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD****R2-8-401. Definitions**

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.
4. "Health Plan" means an arrangement under which ASRS engages a Health Plan Vendor for coverage for members and their eligible dependents for routine, preventive, and emergency health-care procedures, pharmaceuticals, dental, vision, or other services and benefits funded through an insurance policy in which the Health Plan Vendor processes and pays claims as an insurer, or a self-funded arrangement in which the Health Plan Vendor processes and pays claims using ASRS funds.
5. "Health Plan Vendor" means an entity that enters into a contract with ASRS to provide an insured Health Plan or to administer, process, and pay claims for a Health Plan self-insured by ASRS.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 23 A.A.R. 2749, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 28 A.A.R. 223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R2-8-402. General Procedures**

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

**R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action**

- A. After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
  1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
  2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision or Health Plan Vendor decision.
- B. Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
  1. The decision the agency is making in response to the letter of appeal; and

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.
- C. A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.
- D. Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such director's designee shall send a response letter by certified mail to the person requesting the appeal that includes:
1. The agency action the ASRS is taking in response to the letter of appeal; and
  2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).
- E. For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
1. The name and mailing address of the member, employer, or other person filing the Request;
  2. The name and mailing address of the attorney for the person filing the Request, if applicable;
  3. A concise statement of the reasons for the appeal.
- F. The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).
- G. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).
- H. Pursuant to subsection (B):
1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
  2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.
- I. The Board has delegated to each Health Plan Vendor the authority to:
1. Interpret and apply the terms of the Health Plan Vendor's particular Health Plan;
  2. Determine whether a particular benefit is included in the Health Plan and, if included, the amount of payment to be made under the Health Plan; and
  3. Perform a full and fair review of any decision by the Health Plan Vendor regarding benefits included in or payments to be made under the Health Plan if the decision is appealed in accordance with the Health Plan Vendor's specified procedures.
- J. An individual who is enrolled in a Health Plan made available by ASRS and who wishes to appeal a decision by the Health Plan Vendor shall follow the appeal procedures specified in the applicable Health Plan description.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 28 A.A.R.

223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings**

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular meeting, shall be reviewed by the Board at that meeting. At the meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the meeting at which the Board made the final decision.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision**

- A. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.
- B. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.
- C. A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.
- D. The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;
  2. Misconduct of the Board, the hearing officer, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the process of the action; or
  7. That the decision, or findings of fact, is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the final administrative decision or grant a rehearing before the Board or review of final administrative decision to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- granting a rehearing or review shall specify with particularity the grounds for the order.
- F.** Not later than 10 days after the final administrative decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its final administrative decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- G.** When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- H.** The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- I.** If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.
- Historical Note**
- New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).
- ARTICLE 5. PURCHASING SERVICE CREDIT**
- R2-8-501. Definitions**
- The following definitions apply to this Article unless otherwise specified:
1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
  2. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
  3. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
    - a. Eligible Member's Current Years of Credited Service;
    - b. Eligible Member's age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;
    - c. Amount of Service Credit the member wishes to purchase; and
    - d. Member's current annual compensation.
  4. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member's IRA or 403(b) is not maintained by the member's Employer.
  5. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
  6. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
  7. "Direct rollover" means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
  8. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
  9. "Eligible member" means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
  10. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
  11. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
  12. "Irrevocable PDA" means an irrevocable "Payroll Deduction Authorization" contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
  13. "Leave of absence service" means an approved leave of absence without pay as specified in A.R.S. § 38-744.
  14. "LTD" means the same as in R2-8-301.
  15. "Military Call-up service" means a member is called to Active Duty in a branch of the United States Uniformed Services.
  16. "Military service" means Active Duty or Active Reserve Duty with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
  17. "Military service record" means a United States Uniformed Services or National Oceanic and Atmospheric Administration document that provides the following information:
    - a. The member's full name;
    - b. The member's Social Security number;
    - c. Type of discharge the member received; and
    - d. Active Duty dates, if applicable; or
    - e. Active Reserve Duty dates, if applicable; and
    - f. Point history for Active Reserve Duty dates, if applicable.
  18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
  19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
  20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
  21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service under A.R.S. § 38-745, and Other Public Service that an Eligible Member may purchase.
  22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- money required to purchase a specified amount of Service Credit.
23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).
  24. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
  25. "Transfer employment" means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
    - a. After accepting an offer to work for a new Employer;
    - b. While working as an active member for a different Employer; or
    - c. Before returning to work with any Employer within 120 days of terminating employment.
  26. "Trustee-to-Trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
  27. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
  28. "Window credit" means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.
2. This transaction is subject to audit. If any errors or misrepresentations are discovered as a result of an audit, the Eligible Member's total credited service with the ASRS will be adjusted as necessary and if the Eligible Member is retired, the Eligible Member's retirement benefit will also be adjusted. Any overpayment or overpayments will be refunded. However, if a payment made with a rollover or pre-tax dollars is returned to the Eligible Member, there may be tax consequences as a result of this refund.
- C. Upon receipt of the documentation required by this Article from the Eligible Member and if the Eligible Member's request to purchase Service Credit meets the requirements of this Article, the ASRS shall provide the following to the Eligible Member:
    1. An SP Invoice stating the cost to purchase the amount of Service Credit the member is eligible to purchase;
    2. Instructions for electing method of payment; and
    3. The date payment election is due.
  - D. An Eligible Member who requests to purchase Service Credit pursuant to this Section shall elect one or more methods of payment and submit the election to the ASRS by the date payment election is due.
  - E. An Eligible Member who elects to purchase Service Credit using after-tax payments shall acknowledge the following information:
    1. After-tax payments must be from the Eligible Member and remitted to the ASRS by the Eligible Member;
    2. After-tax payments cannot be used to purchase political subdivision employment with a United States territory, commonwealth, overseas possession, or insular area; and
    3. If the Eligible Member joined the ASRS on or after July 1, 1999, §§ 415(b) and 415(c) of the IRC limit the after-tax money the Eligible Member can use to purchase Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-502. Request to Purchase Service Credit and Notification of Cost**

- A. An Eligible Member may request to purchase Service Credit electronically. The Eligible Member shall verify at the time of request, the following information for the Eligible Member:
  1. Name;
  2. Mailing address;
  3. Date of birth;
  4. Marital status;
  5. Gender;
  6. Primary email address;
  7. Primary phone number; and
  8. Which category of Service Credit the Eligible Member is requesting to purchase.
- B. An Eligible Member who requests to purchase Service Credit pursuant to subsection (A) shall acknowledge the following statements of understanding:
  1. Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the retirement plan with an intent to defraud the plan is guilty of a class 6 felony per A.R.S. § 38-793; and

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-503. Requirements Applicable to All Service Credit Purchases**

- A. To purchase Service Credit at the amount provided in an SP Invoice, an Eligible Member shall purchase the Service Credit by check or money order, or request an Irrevocable PDA, Direct Rollover, Trustee-to-Trustee Transfer, or Termination Pay as specified in this Article, by the due date specified by the method of payment the Eligible Member elected.
- B. An Eligible Member may purchase all of the Service Credit or a portion of the Service Credit. If the Eligible Member wishes to purchase only a portion of the Service Credit, the Eligible Member shall specify:
  1. Either the number of years or partial years of Service Credit the Eligible Member wishes to purchase; or
  2. The cost for the number of years or partial years of Service Credit the Eligible Member wishes to purchase, not exceeding the years or partial years and cost specified on the SP Invoice.
- C. The ASRS shall not consider more than one active request at a time from a member to purchase Service Credit in a single category. The categories are:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Leave of Absence Service;
  2. Military Service;
  3. Forfeited Service; and
  4. Other Public Service.
- D.** An Eligible Member may cancel an active request by notifying the ASRS in writing.
- E.** If an Eligible Member is entitled to a Window Credit, the Eligible Member may apply the Window Credit to purchase Service Credit. To apply a Window Credit to a purchase of Service Credit, the Eligible Member shall make a request to the ASRS in writing by the date payment election is due as specified on the SP Invoice and include the following information:
1. The amount the Eligible Member wants to apply, and
  2. The Eligible Member's dated signature.
- F.** On or before the due date specified on the SP Invoice, an Eligible Member may request an extension of a due date for purchasing Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-504. Service Credit Calculation for Purchasing Service Credit**

- A.** An Eligible Member who purchases Service Credit shall receive one month of credited service for one or more days of service in a calendar month.
- B.** Pursuant to A.R.S. 38-739(B), an Eligible Member who purchases Service Credit shall receive a proportionate amount of credited service based on the length of the Eligible Member's service year.
- C.** Notwithstanding any other provision, an Eligible Member whose membership date is on or after July 20, 2011, cannot purchase more than five years of Service Credit for each of the following based on the length of the Eligible Member's service year:
1. Leave of Absence Service;
  2. Military Service; and
  3. Other Public Service.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-505. Restrictions on Purchasing Overlapping Service Credit**

The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:

1. One year of credited service in any plan year, or
2. One month of credited service in any one calendar month.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-506. Cost Calculation for Purchasing Service Credit**

- A.** For Service Credit for Leave of Absence Service, Military Service, and Other Public Service, the ASRS shall calculate, as of the date of the request to purchase Service Credit:
1. The Actuarial Present Value of the future retirement benefit for the Eligible Member including the Service Credit that the Eligible Member requests to purchase, and
  2. The Actuarial Present Value of the future retirement benefit for the Eligible Member without the Service Credit that the Eligible Member requests to purchase.
- B.** The cost for purchasing the Service Credit that the Eligible Member requests to purchase is the difference between the Actuarial Present Value in subsection (A)(1) and the Actuarial Present Value in subsection (A)(2).

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-507. Required Documentation and Calculations for Forfeited Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Forfeited Service under A.R.S. § 38-742 shall provide the ASRS:
1. The name of an Employer, if known, for which the Eligible Member is requesting to purchase Service Credit for Forfeited Service; and
  2. The year and month the Eligible Member believes the ASRS returned retirement contributions.
- B.** Upon receipt of payment as specified in subsection (D), the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- C.** Notwithstanding subsection (B), if an Eligible Member has more than one return of contributions pursuant to A.R.S. § 38-740, the Eligible Member may elect to purchase Forfeited Service for any of the return of contributions and the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- D.** The amount the Eligible Member shall pay to purchase Service Credit for previously Forfeited Service is the amount of retirement contributions that the ASRS issued, plus interest on that amount from the date on the return of retirement contributions check to the date of redeposit at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Leave of Absence Service under A.R.S. § 38-744 shall provide to the ASRS an Approved Leave of Absence form that includes:
1. The following information completed by the Eligible Member:
    - a. The start date and end date of the approved leave of absence;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- b. The date the Eligible Member returned to work or a statement of why employment was not resumed;
  - c. The name of the Employer;
  - d. Whether the Eligible Member participated in another public retirement system during this leave of absence; and
  - e. If the Eligible Member participated in another public retirement system during the leave of absence, whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the other public retirement system; and
2. Acknowledgement of the following statements of understanding:
    - a. The Eligible Member understands that up to one year of Service Credit may be purchased for each approved leave of absence, if the Eligible Member returns to work for the Employer that approved the leave of absence unless employment could not be resumed because of disability or nonavailability of a position;
    - b. The Eligible Member authorizes the Employer to provide any necessary personal information to ASRS in order to process this request; and
    - c. The Eligible Member certifies that if the Eligible Member participated in another public retirement system during the approved leave of absence, the Eligible Member is not receiving, and is not eligible to receive, a benefit from the other public retirement system for the time during the approved leave of absence; and
  3. The Eligible Member's dated signature.
- B.** Pursuant to A.R.S. § 38-744, a member who participated in another public retirement system during the leave of absence, and is receiving a benefit or is eligible to receive a benefit from the other public retirement system, is not an Eligible Member for purposes of this Section.
- C.** If the information provided by the Eligible Member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the Eligible Member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account.
- D.** Upon submitting the information specified in subsection (B), the Employer shall acknowledge the following statements of understanding:
1. The Employer has verified all the dates for the approved leave of absence period are correct; and
  2. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- E.** The amount the Eligible Member shall pay to purchase Service Credit for an approved leave of absence is determined as provided in R2-8-506.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-509. Required Documentation and Calculations for Military Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Military Service under A.R.S. § 38-745(A) and (B) shall provide to the ASRS:

1. A copy of the Eligible Member's Military Service Record within 30 days of the Eligible Member's request to purchase Service Credit; and
2. A Military Service form that contains:
  - a. Whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the military.
  - b. The branch of the Uniformed Services the Eligible Member was in;
  - c. Whether the Eligible Member was on Active Duty or Active Reserve Duty;
  - d. The start date and end date of the Eligible Member's Military Service for which the Eligible Member is requesting to purchase Service Credit;
  - e. Acknowledgement that the Eligible Member will submit to the ASRS:
    - i. Proof of honorable separation for each type of Military Service listed on the form; and
    - ii. The Eligible Member's Military Service Record that supports all of the service listed on the form;
  - f. Acknowledgement of the following statements of understanding:
    - i. The Eligible Member understands that the service listed on this form does not include time that the Eligible Member either volunteered or was ordered into Active Duty service as part of a military call-up while employed by an Employer. This service is purchased under Military Call-up Service and requires a Military Call-up form to be completed by the Eligible Member's Employer; and
    - ii. The Eligible Member understands that any time the Eligible Member has listed on this form for Reserve or National Guard time reflects the months that the Eligible Member attended at least one drill or assembly for each month listed.

- B.** The amount the Eligible Member pays to purchase Service Credit for Military Service is determined as provided in R2-8-506.
- C.** The ASRS determines the amount of Service Credit an Eligible Member receives for Active Duty and Active Reserve Duty time by the time listed on the Military Service form, if the service listed is supported by the information contained in the Eligible Member's Military Service Record.
- D.** If the ASRS has not received complete and correct documents pursuant to this Section within 30 days of the request to purchase Service Credit, the ASRS shall cancel the Eligible Member's request to purchase Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-510. Required Documentation and Calculations for Military Call-up Service Credit**

- A.** An Eligible Member who meets the requirements under A.R.S. § 38-745(D) shall receive up to 60 months of Service Credit, not to exceed 5 years of Service Credit for Military Call-up Service under A.R.S. § 38-745(D) through (K). In order to determine the amount of contributions the Employer owes to purchase Service Credit for Military Call-up Service, the Eligible Member's Employer shall provide to the ASRS a

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

copy of the Eligible Member's Military Service Record and a completed Military Call-up form that includes the following:

1. The Eligible Member's full name;
  2. The Eligible Member's Social Security number;
  3. The start date of Military Call-up Service;
  4. The end date of Military Call-up Service;
  5. The date the Eligible Member returned to work for the Employer;
  6. The salary for each pay period in each fiscal year while the Eligible Member was on military call-up, including any salary increases the Eligible Member would have received had the Eligible Member not left work due to military call-up;
  7. The name of a contact individual for the Employer, and that individual's business telephone number;
  8. The contact individual's dated signature;
  9. If applicable, the dates that the Eligible Member was hospitalized and released from the hospital as a result of participating in a military call-up.
  10. If applicable, the date the Eligible Member became disabled during or as a result of participating in a military call-up;
  11. If applicable, the date of the Eligible Member's death during or as a result of participating in a military call-up; and
  12. Acknowledgement of the following statements of understanding:
    - a. All the dates and payroll information for the Military Call-up Service are correct;
    - b. The Eligible Member:
      - i. Was honorably separated from Active Duty and returned to the same Employer within 90 days of either discharge from Active Duty or release from service-related hospitalization; or
      - ii. Was disabled and unable to return to work; or
      - iii. Died during or as a result of Active Duty.
    - c. The Employer must pay both the employee and Employer contributions in a lump sum upon the Eligible Member returning to employment, receipt of a declaration of disability, or receipt of a death certificate. These contributions are based on the salary the Eligible Member would have earned if the Eligible Member had not volunteered or been ordered into Active Duty;
    - d. The Eligible Member may receive a maximum of 60 months of Service Credit for Military Call-up Service pursuant to A.R.S. § 38-745; and
    - e. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- B.** An Employer shall make the request to purchase Service Credit for Military Call-up Service within 30 days after the earlier of the dates listed in A.R.S. § 38-745(E).
- C.** The ASRS calculates the amount the Employer pays to purchase Military Call-up Service pursuant to A.R.S. § 38-745(G) by multiplying the Eligible Member's salary per pay period at the time Active Duty commences, by the contribution rate in effect for the period of Active Duty. Included in the calculation are any salary increases the Eligible Member would have received if the Eligible Member had not left work to participate in a military call-up.
- D.** The ASRS shall send the Employer a statement of cost for purchase of the Service Credit for Military Call-up Service based on the calculation in subsection (C). Within 90 days from the date on the ASRS statement of cost, the Employer shall pay to the ASRS the amount on the statement. If the Employer fails to make full payment within 90 days, interest shall accrue on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect on the date of the statement of cost as specified in R2-8-118(A). The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- E.** If an Employer remits retirement or long-term disability contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, the Employer shall reverse the contributions after the ASRS receives the information in subsection (A).
- F.** If an Employer remits retirement contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, and the Eligible Member does not return to the Employer after separation from active Military Service, the ASRS shall apply the retirement contributions to the Eligible Member's credited service.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-511. Required Documentation and Calculations for Other Public Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Other Public Service under A.R.S. § 38-743 shall provide to the ASRS a completed Other Public Service form, signed and dated by the Eligible Member, that includes the following:
1. The name and mailing address of the Other Public Service employer;
  2. The position the Eligible Member held while working for the Other Public Service employer;
  3. The start date and end date of the Eligible Member's employment with the Other Public Service employer;
  4. The actual months and years the Eligible Member was employed with the Other Public Service employer;
  5. A statement of whether the Eligible Member participated in the Other Public Service employer's retirement plan;
  6. If the Eligible Member participated in the Other Public Service employer's retirement plan, the name of the retirement plan, identifying whichever one of the following applies:
    - a. The approximate date the Eligible Member took a return of retirement contributions;
    - b. The plan is non-contributory and the Eligible Member is not eligible for benefits from the plan; or
    - c. That, if not using all of the retirement contributions as a rollover, the Eligible Member will request a return of retirement contributions and forfeit all rights to any benefits from the plan and provide the ASRS with documentation that the Eligible Member has forfeited all rights to benefits from the plan no later than the due date specified on the SP Invoice; and
  7. Acknowledgement that if an audit determines that the Eligible Member is eligible for a benefit from the Other Public Service employer's retirement plan, the Eligible Member is required to take necessary steps to forfeit the benefit, and if the forfeiture is not completed within 90 days of being notified of the audit results, the Service Credit purchase listed on this application will be revoked and any funds paid to purchase the Service Credit will be refunded to the member.
- B.** The amount the Eligible Member shall pay to purchase Service Credit for Other Public Service is determined as provided in R2-8-506.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- C. Notwithstanding R2-8-512, the ASRS shall not accept after-tax monies for the purchase of Service Credit for Other Public Service with a territory, commonwealth, overseas possession or insular area pursuant to A.R.S. § 38-743.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order**

- A. An Eligible Member may purchase Service Credit by personal check in the Eligible Member's name, cashier's check, or money order remitted by the Eligible Member.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives a check, cashier's check, or money order made payable to the ASRS in the amount to purchase the requested Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513. Purchasing Service Credit by Irrevocable PDA**

- A. An Eligible Member may purchase Service Credit by Irrevocable PDA.
- B. If the Eligible Member elects to pay for Service Credit by Irrevocable PDA, the Eligible Member shall elect the terms of the Irrevocable PDA and submit the Irrevocable PDA to the ASRS and the Employer with the following:
1. Acknowledgements:
    - a. This Irrevocable PDA is binding and irrevocable;
    - b. This Irrevocable PDA shall remain in effect until the earlier of:
      - i. The authorized payroll deductions are completed; or
      - ii. The Eligible Member terminates employment.
    - c. The ASRS cannot terminate the Irrevocable PDA due to financial hardship;
    - d. The amount of Irrevocable PDA payments the Eligible Member makes is subject to federal laws;
    - e. The cost to purchase Service Credit by Irrevocable PDA includes an administrative interest charge at the Assumed Actuarial Investment Earnings Rate in effect at the time of the authorization as specified in R2-8-118(A);
    - f. Payments specified in this Irrevocable PDA are in addition to the regular contributions required pursuant to A.R.S. §§ 38-736 and 38-797.05;
    - g. The ASRS shall apply credited service to the Eligible Member's account upon receipt of payments authorized by the Eligible Member under this Irrevocable PDA; and
    - h. The ASRS shall not transfer, refund, or disburse the administrative interest that the ASRS charges pursuant to subsection (B)(1)(e); and
  2. Statements of Understanding:
    - a. It is the Eligible Member's responsibility to ensure the Eligible Member's Employer properly deducts payments and submits contributions as provided by the terms of the Irrevocable PDA;

- b. Payments specified by the terms of this Irrevocable PDA shall be made directly to the ASRS from the Eligible Member's Employer and the Eligible Member does not have the option of receiving such payments directly from the Employer;
- c. The Eligible Member's Employer shall make payments pursuant to this Irrevocable PDA after other mandatory deductions are made;
- d. The Eligible Member's Employer cannot accept an election to change this Irrevocable PDA;
- e. The Eligible Member has up to 14 days to request the ASRS calculate the remaining balance of this Irrevocable PDA after the earlier of:
  - i. Terminating employment;
  - ii. Terminating LTD without returning to work with an Employer; or
  - iii. The effective ASRS retirement date;
- f. The Eligible Member must complete a purchase of the remaining balance on this Irrevocable PDA by the due date specified on the PDA Pay-off Invoice;
- g. It is the Eligible Member's responsibility to notify the ASRS of any changes in the Eligible Member's employment that may affect the status of this Irrevocable PDA;
- h. If the Eligible Member terminates employment and returns to work with an Employer within 120 days of terminating employment, this Irrevocable PDA must continue with the new Employer pursuant to R2-8-513.01; and
- i. If the Eligible member terminates employment and does not return to work with an Employer within 120 days of terminating employment, the ASRS shall terminate this Irrevocable PDA pursuant to R2-8-513.01.

- C. By submitting the Irrevocable PDA to the ASRS, the Irrevocable PDA is deemed to be signed by the Eligible Member.
- D. At the time the Eligible Member elects the Irrevocable PDA, the Eligible Member may elect to use Termination Pay towards the balance of the Irrevocable PDA if the Eligible Member terminates employment. If the Eligible Member elects to use Termination Pay, the Eligible Member shall submit the Irrevocable PDA to the ASRS with the following information:
1. A statement that the Eligible Member:
    - a. Understands and agrees that the Eligible Member must continue working at least Three Full Calendar Months after the date of submission of the form before Termination Pay may be used on a pre-tax basis;
    - b. Understands that if the Termination Pay exceeds the balance owed on the Irrevocable PDA, the overage will be returned to the Employer to be distributed to the Eligible Member;
    - c. Understands that the election to use Termination Pay is binding and irrevocable;
    - d. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
    - e. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
    - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
- h. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
2. Whether the Eligible Member is electing either all Termination Pay or a specified amount of Termination Pay to be applied to the balance of the Irrevocable PDA.
- E.** The ASRS shall:
1. Charge interest on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect at the time the Eligible Member submitted the request to purchase service as specified in R2-8-118(A);
  2. Limit the payroll deduction time period to a maximum of 520 payments; and
  3. Require a minimum payment of \$10.00 per payroll period, or payment in an amount to purchase at least .001 years of Service Credit per payroll period, whichever is greater.
- F.** The Employer shall implement the payroll deduction on the first pay period after receiving the Irrevocable PDA.
- G.** If a deduction is not made under an Irrevocable PDA within six months after the Eligible Member submits the authorization, the authorization lapses and the Eligible Member may make another request, which is recalculated based on the new request date unless the failure to begin deductions is due to an ASRS error.
- H.** A period of leave of absence, LTD, or military call-up shall not cancel the Irrevocable PDA. The Employer shall resume deductions immediately upon the Eligible Member's return to that Employer. The period during which the Eligible Member is on leave of absence, on LTD, or leaves work because of a military call-up is not included in the payment time limitation under subsection (D)(2). If the Eligible Member does not return to active working status, whether due to termination of employment or retirement, the Eligible Member may elect to purchase the balance of unpaid service under the Irrevocable PDA at the time of termination or retirement as specified in this Section.
- I.** Deductions made pursuant to an Irrevocable PDA continue until the:
1. Irrevocable PDA is completed;
  2. Eligible Member retires, whether or not the Eligible Member continues employment as allowed in A.R.S. §§ 38-766.01 and 38-764(I);
  3. Eligible Member terminates all ASRS employment without transferring employment; or
  4. Date of the Eligible Member's death.
- J.** If an Eligible Member retires or terminates employment from all Employers without transferring employment as stated in R2-8-513.01 before all deductions are made as authorized by the Irrevocable PDA, the ASRS shall cancel the Eligible Member's Irrevocable PDA unless the Eligible Member notifies the ASRS of the Eligible Member's intent to purchase the remaining amount within 14 days after the earlier of either termination or retirement.
- K.** When the Eligible Member notifies the ASRS of retirement or termination from all ASRS employment and requests to pay off the Irrevocable PDA, the ASRS shall send the Eligible Member a PDA Pay-off Invoice through the Eligible Member's secure ASRS account. The ASRS shall calculate the amount owed by the Eligible Member.
- L.** By the date payment election is due, the Eligible Member shall ensure that the ASRS receives the information specified in R2-8-502(C).
- M.** The Eligible Member may purchase the remaining Service Credit by one or more of the following methods by the due date specified on the PDA Pay-off Invoice:
1. By any method specified in R2-8-512;
  2. By making a request to the ASRS for a rollover or transfer under R2-8-514 and completing the rollover or transfer by the due date specified on the PDA Pay-off Invoice; or
  3. By Termination Pay under R2-8-519, if the Eligible Member authorized this option at the time the Eligible Member signed the Irrevocable PDA.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513.01. Irrevocable PDA and Transfer of Employment to a Different Employer**

- A.** If an Eligible Member Transfers Employment, the Eligible Member's new Employer shall continue to make deductions pursuant to an Irrevocable PDA.
- B.** If an Eligible Member terminates employment without having accepted an offer to work with an Employer, the ASRS shall terminate an Irrevocable PDA.
- C.** Notwithstanding subsection (B), if a retirement contribution is due from a new Employer within 120 days from the Eligible Member's termination date with the previous Employer, the ASRS shall determine that the Eligible Member Transferred Employment, unless the Eligible Member notified the ASRS of the termination of employment.
- D.** If an Eligible Member who has elected Termination Pay pursuant to R2-8-513(D) Transfers Employment, the ASRS shall not accept any Termination Pay that the ASRS receives from the Eligible Member's previous Employer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513.02. Termination Date**

- For the purpose of an Irrevocable PDA, the date an Eligible Member is considered terminated from an Employer is:
1. For an Eligible Member terminating employment, the Eligible Member's last pay period end date with that Employer;
  2. For an Eligible Member on military call-up who does not return to the same Employer:
    - a. 90 days from the date of separation from military call-up;
    - b. 90 days from the date released from the hospital, if injured while on military call-up; or
    - c. The date the Eligible Member has been hospitalized for two years for injuries sustained as a result of participating in a military call-up.
  3. For an Eligible Member on leave of absence without pay who does not return to the same Employer, the date the Employer required the Eligible Member to return to work;
  4. For an Eligible Member who is unable to work because of a disability, the later of:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. The date the Eligible Member's request for long-term disability benefits are denied;
- b. The date the Eligible Member no longer has leave with pay available; or
- c. For an Eligible Member on long-term disability who does not return to the same Employer or Transfer Employment, the date long-term disability benefits are terminated.
- d. The funds must be sent as a Direct Rollover from a plan listed in subsection (C)(3)(b) and issued to the ASRS for the benefit of the Eligible Member. If the payment is issued to anyone other than the ASRS, including the Eligible Member, then within 60 days of the plan issuing the payment, the Eligible Member must place the payment into a plan specified in subsection (C)(3)(b) to be reissued directly to the ASRS.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer**

- A. An Eligible Member may purchase Service Credit by Direct Rollover or Trustee-to-Trustee Transfer pursuant to this Article.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives the payment for the service purchase and a completed Direct Rollover/Transfer Certification to Purchase Service Credit form.
- C. An Eligible Member who chooses to purchase Service Credit shall provide the following to the ASRS:
  - 1. The name of the financial institution or plan;
  - 2. Whether the Eligible Member is choosing to rollover/transfer the entire balance of their account and if not, the amount of the rollover/transfer;
  - 3. Acknowledgement of the following information:
    - a. After-tax funds are only acceptable from 401(a) and 403(b) plans and must be listed separately from the portion that is pre-tax on the payment as after-tax amounts. This information must be provided to the ASRS with the payment.
    - b. The only fund types that the ASRS accepts are:
      - i. 401(a);
      - ii. 401(k) pre-tax only;
      - iii. 403(b);
      - iv. Governmental 457 pre-tax only;
      - v. 403(a) pre-tax only;
      - vi. 408 Traditional IRA pre-tax only;
      - vii. 408(k) SEP IRA pre-tax only;
      - viii. 408(p) Simple IRA pre-tax only and only if the Eligible Member participated for at least 2 years in this plan;
    - c. The ASRS shall not accept the following fund types:
      - i. Roth funds;
      - ii. Funds already distributed to the Eligible Member from a retirement plan listed in subsection (C)(3)(b);
      - iii. Inherited IRA;
      - iv. Coverdale Education Savings Account funds;
      - v. Hardship distributions;
      - vi. Funds not includable in gross income;
      - vii. Funds required under § 401(a)(9) of the IRC because the Eligible Member have attained age 70 1/2;
      - viii. One of a series of substantially equal periodic payments made at least annually for the Eligible Member's life;
      - ix. One of a series of substantially equal periodic payments made for 10 years or more;
      - x. After-tax contributions from any plan other than a 401(a) or 403(b) qualified plan;
- D. An Eligible Member who chooses to purchase Service Credit pursuant to this Section shall submit a Direct Rollover/Transfer Certification to Purchase Service Credit form that includes:
  - 1. The Eligible Member's full name;
  - 2. The last 4 digits of the Eligible Member's Social Security number;
  - 3. The Eligible Member's signature certifying that the Eligible Member understands the requirements, limitations, and entitlements for the rollover/transfer that is being used to purchase Service Credit, and has read and understands the Direct Rollover/Transfer Certification to Purchase Service Credit form and any accompanying instructions and information;
  - 4. The Authorized Representative's name and title;
  - 5. The Authorized Representative's telephone number; and
  - 6. Certification by the Authorized Representative's dated signature that:
    - a. The plan is either:
      - i. A qualified pension, profit sharing, or 401(k) plan described in IRC § 401(a), or a qualified annuity plan described in IRC § 403(a);
      - ii. A deferred compensation plan described in IRC § 457(b) maintained by a state of the United States, a political subdivision of a state of the United States, or an agency or instrumentality of a state of the United States;
      - iii. An annuity contract described in IRC § 403(b); or
      - iv. An IRA described in A.R.S. § 38-747(H)(3);
    - b. The rollover/transfer specified on the form from which the pre-tax funds are being rolled over or transferred is intended to satisfy the requirements of the applicable Section of the IRC;
    - c. The Authorized Representative is not aware of any plan provision or any other reason that would cause

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

the plan/IRA not to satisfy the applicable Section of the IRC; and

- d. The funds will be sent to the ASRS as a direct plan rollover, IRA rollover, or a Trustee-to-Trustee Transfer.
  - E. The Eligible Member shall contact the Plan Administrator to have the funds distributed and transferred to the ASRS. Unless the ASRS receives a check for the correct amount from the plan and all documents required by this Article by the due date specified by the method of payment the Eligible Member elected, the ASRS shall cancel the request to purchase Service Credit.
  - F. The Eligible Member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
  - G. If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the Eligible Member.
- B. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with the Eligible Member's anticipated termination date which cannot be more than six months from the date the ASRS issues the SP Invoice and must be at least Three Full Calendar Months after the date the Eligible Member elects and submits Termination Pay as a method of payment.
  - C. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with a Termination Pay Authorization for the Purchase of Service Credit form with the following information:
    1. The name of the Employer that will be submitting the Termination Pay to the ASRS;
    2. Whether the Eligible Member elects to use all Termination Pay or a specific amount of Termination Pay;
    3. Signature of the Eligible Member, certifying that the Eligible Member understands that:
      - a. The Eligible Member is required to continue working at least Three Full Calendar Months after the date the Eligible Member submits the Termination Pay Authorization for the Purchase of Service Credit form before Termination Pay may be used on a pre-tax basis;
      - b. If the Eligible Member terminates employment more than six months after the date on the SP Invoice, the Eligible Member may purchase the Service Credit at a newly calculated rate and possibly at a higher cost;
      - c. The terms elected in the Termination Pay Authorization for the Purchase of Service Credit form are binding and irrevocable;
      - d. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
      - e. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
      - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay, as provided in the Termination Pay Authorization for the Purchase of Service Credit form; and
      - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
      - h. If the Termination Pay exceeds the balance due on the SP Invoice, the ASRS will return the difference to the Eligible Member's Employer to be distributed to the Eligible Member;
      - i. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
      - j. The ASRS will send a notification to the Eligible Member's Employer two weeks prior to the Eligible Member's termination date, as indicated on the Termination Pay Authorization form, to notify the Employer that the Eligible Member's Termination Pay must be sent directly to the ASRS.
  - D. The ASRS shall not apply Termination Pay to an SP Invoice covered by an Irrevocable PDA in effect at the time of termination, unless the Eligible Member elected the Termination Pay pursuant to R2-8-513(D) at the time the member authorized the Irrevocable PDA.
  - E. If an Eligible Member elects to use Termination Pay to purchase Service Credit, the ASRS shall not apply any other form

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Citations to subsection (C)(3)(b) corrected in subsections (C)(3)(c)(ii) and (C)(3)(d) (Supp. 20-1).

**R2-8-515. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-516. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

**R2-8-517. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

**R2-8-518. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

**R2-8-519. Purchasing Service Credit by Termination Pay**

- A. To purchase Service Credit using Termination Pay, an Eligible Member shall elect to use Termination Pay by the date payment election is due.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

of payment to the Service Credit purchase until the ASRS receives the Termination Pay.

- F. Notwithstanding any other Section, if an Eligible Member dies prior to terminating employment, the ASRS shall not accept Termination Pay.
- G. If an Eligible Member Transfers Employment, the ASRS shall not accept Termination Pay from the Eligible Member's previous Employer.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA**

- A. If an Eligible Member terminates employment without transferring employment as specified in R2-8-513.01 while purchasing Service Credit by an Irrevocable PDA and requests return of retirement contributions pursuant to A.R.S. § 38-740, the ASRS shall return any principal payments made for the purchase of Service Credit including interest earned on those principal payments at the interest rate specified in R2-8-118(A), column 3.
- B. If an Eligible Member dies while purchasing Service Credit, the ASRS shall credit the Eligible Member's account with:
  - 1. The Service Credit for which the ASRS received payment pursuant to a PDA before the Eligible Member's death;
  - 2. The principal payments made by the Eligible Member; and
  - 3. Interest earned on payment through the date of distribution at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).
- C. If an Eligible Member dies while purchasing Service Credit, the ASRS shall not permit the survivor or an estate to purchase the remaining balance.
- D. The ASRS shall not transfer, disburse, or refund the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.
- E. The ASRS shall not credit a member's account with the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-521. Adjustment of Errors**

- A. If the ASRS determines an error has been made in the information provided by the member or in the calculations made by the ASRS, the ASRS shall make an adjustment to the member's account and return ineligible payments, if any.
- B. The ASRS shall notify the member in writing of any adjustments.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING****R2-8-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
2. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
3. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
4. "Substantive policy statement" means the same as in A.R.S. § 41-1001(22).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

**R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements**

Except on a state holiday, a person may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-603. Petition for Rulemaking**

- A. A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
  1. The name and current address of the person submitting the petition;
  2. An identification of the rule to be made or amended;
  3. The suggested language of the rule;
  4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
    - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
    - b. If applicable, statistical data with references to attached exhibits;
  5. The signature of the person submitting the petition; and
  6. The date the person signs the petition.
- B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the person within 60 days of receipt of the petition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement**

- A. A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the person alleges constitutes a rule shall include the following in the petition:
  1. The name and current address of the person submitting the petition,

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
  3. The signature of the person submitting the petition, and
  4. The date the person signs the petition.
- B.** The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C.** The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact**

- A.** A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the person submitting the objection;
  2. Identification of the rule;
  3. Either evidence that the actual economic, small business and consumer impact:
    - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
    - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
    - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  4. The signature of the person submitting the objection; and
  5. The date the person signs the objection.
- B.** The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-606. Oral Proceedings**

- A.** A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
  2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
  3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B.** The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, tran-

scripts, lists, speaker slips, and written comments received shall become part of the official record.

- C.** A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
  2. Provide a Request to Present Oral Comment form that includes space for:
    - a. The name of the person submitting the Request to Present Oral Comment form,
    - b. The entity the person represents, if applicable, and
    - c. The rule on which the person wishes to comment or about which the person has a question;
  3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
  4. Explain the background and general content of the proposed rulemaking;
  5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
  6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D.** A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-607. Petition for Delayed Effective Date**

- A.** A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
  2. Identification of the proposed rule;
  3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
  4. Reason why the public interest will not be harmed by the delayed effective date;
  5. Signature of the person submitting the petition; and
  6. Date the person signs the petition.
- B.** The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD****R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:
    - a. Whether the employee was covered under the Employer's 218 Agreement prior to July 24, 2014,
    - b. The number of hours the member worked for the Employer per pay period, and
    - c. The amount and type of compensation earned by the member within each pay period.
  3. "Eligible service" means employment with an Employer:
    - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
    - b. In which the member was Engaged to Work for an Employer.
  4. "Engaged to Work" means the same as in R2-8-1001.
  5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
  6. The member's hire date;
  7. Whether the member was Engaged to Work for the Employer;
  8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
  9. The dated signature of the Employer's authorized agent certifying:
    - a. All the dates and salary information is correct;
    - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
    - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
    - d. Acknowledgement the member will receive an invoice for their contributions owed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-702. General Information**

- A. The Employer shall pay the Employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not the member pays the member's portion of the contributions.
- B. The person who initiates the claim that contributions were not withheld for Eligible Service has the burden to prove a contribution error was made.
- C. The ASRS shall not waive payment of contributions or interest owed under this Article.
- D. If a member is not able to establish eligibility for purchasing service credit pursuant to this Article, the member may be eligible to purchase service pursuant to A.R.S. § 38-743 and Article 5 of this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-703. Employer's Discovery of Error**

If an Employer determines that any amount of contributions have not been withheld for a member for a period of Eligible Service, the Employer shall notify the ASRS by submitting through the Employer's secure ASRS account a Verification of Contributions Not Withheld form with the following information:

1. The member's full name;
2. The member's Social Security number;
3. The range of dates that any contribution was not withheld;
4. The member's position title during the date range listed in subsection (3);
5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
6. The member's hire date;
7. Whether the member was Engaged to Work for the Employer;
8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
9. The dated signature of the Employer's authorized agent certifying:
  - a. All the dates and salary information is correct;
  - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
  - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
  - d. Acknowledgement the member will receive an invoice for their contributions owed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-704. Member's Discovery of Error**

- A. If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:
  1. Notify the member's Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
  2. Submit to the ASRS a Contributions Not Withheld Request form through the member's secure ASRS account with the following:
    - a. The name of the Employer that should have remitted contributions;
    - b. The range of dates that any contribution was not withheld;
    - c. The member's position title during the date range listed in subsection (b);
    - d. Whether the member was Engaged to Work for the Employer; and
    - e. Dated signature of the member certifying the member understands:
      - i. The ASRS will be providing the member's Social Security number to the Employer for verification; and
      - ii. If the member's Employer cannot verify this request, it is the member's responsibility to provide Documentation of Eligible Service.
- B. If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account, along with the information identified in R2-8-703.
- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

believes supports the allegation that contributions should have been withheld.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-705. ASRS' Discovery of Error**

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that all contributions have not been withheld for a member for a period of Eligible Service, the ASRS shall notify the Employer in writing and shall request the Employer submit through the Employer's secure ASRS account a Verification of Contributions Not Withheld form pursuant to R2-8-703.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-706. Determination of Contributions Not Withheld**

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B. Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
  1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
  2. The employee participates in:
    - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
    - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C. Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D. If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E. The ASRS shall provide to each, the Employer and the member, an invoice with the following:
  1. The amount of Eligible Service for which contributions were not withheld,
  2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
  3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,
  4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
  5. The dollar amount of contributions to be paid to the ASRS by the member.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-707. Submission of Payment**

- A. Within 90 days from the date on the statement identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within 90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- B. The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).
- C. If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D. A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-708. Expired****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

**R2-8-709. Repealed****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**ARTICLE 8. RECOVERY OF OVERPAYMENTS****R2-8-801. Definitions**

For purposes of this article, the following definitions apply, unless specified otherwise:

1. "DRO" means the same as in R2-8-120.
2. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
3. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
4. "LTD benefit" means the same as in R2-8-301

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

5. "Overpayment" means:
- Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
  - Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount**

- A.** The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
- Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9); and
  - Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9).
- B.** A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.
- C.** Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the estimated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.
- D.** If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).
- E.** Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:
- Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount, or
  - Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.
- F.** If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-803. Reimbursement of Overpayments**

- A.** Upon the ASRS discovering that it has made an overpayment to a member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B.** A person who reimburses the ASRS for an overpayment shall do so by remitting a check, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C.** If the ASRS is unable to collect the amount of an overpayment by reducing future payments to members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.
- D.** A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-804. Collection of Overpayments from Forfeiture**

- A.** Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).
- B.** The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:
- Pursue collection of any remaining overpayment amount pursuant to this Article; and
  - Distribute the remaining refund amount to the member pursuant to R2-8-115.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-805. Collection of Overpayments from Retirement Benefit**

- A.** Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B.** Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:
- If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than \$5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;
  - If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of any overpayment to no less than \$5.00;
  - If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity dis-

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

bursement plus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than \$5.00 and pursue collection pursuant to subsection (C).

- C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpayments which have not been reimbursed or collected pursuant to this Article:
1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.
  2. If the amount of the overpayment cannot be collected pursuant to subsection (C)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.
- D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-806. Collection of Overpayments from Survivor Benefit**

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS shall reduce the necessary person's amount of benefits pursuant to subsection (C).
- C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.
- D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.
- E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-807. Collection of Overpayments from LTD Benefit**

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any over-

payment the member received from the ASRS and has not reimbursed pursuant to this Section.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-808. Collection of Overpayments by the Attorney General**

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-809. Collection of Overpayments by the Arizona Department of Revenue**

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-810. Collection of Overpayments by Garnishment or Levy**

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this article by garnishing wages and/or placing a levy on the appropriate person's bank account.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**ARTICLE 9. COMPENSATION****R2-8-901. Definitions**

"Services rendered" means the duties which a member performs for an Employer as required by the member's employment with the Employer.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-902. Remitting Contributions**

Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer's secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this Section.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-903. Accrual of Credited Service**

- A. A member shall accrue service credits pursuant A.R.S. § 38-739 for each month in which the Employer's pay period ends

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902.

- B.** Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-904. Compensation from An Additional Employer**

- A.** For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:
1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;
  2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;
  3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and
  4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member's service year.
- B.** For purposes of calculating average monthly compensation according to A.R.S. § 38-711, compensation includes the pay identified in subsection (A).
- C.** Notwithstanding any other subsection, for a member whose membership began after December 31, 2009, compensation includes pay the member receives from an additional Employer if the member meets membership pursuant to A.R.S. § 38-711 with the additional Employer.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-905. Expired****Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

**ARTICLE 10. MEMBERSHIP****R2-8-1001. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 Agreement" means the same as in R2-8-701.
2. "218 Resolution" means written authorization for a potential Employer to provide Social Security and Medicare or Medicare-only coverage to employees under the provisions of § 218 of the Social Security Act.

3. "Acceptable Documentation" means the same as in R2-8-115.
4. "Designated Employer Administrator" means an individual designated by the Employer and who has authorized access to the Employer's secure ASRS account in order to fulfill the Employer's responsibilities.
5. "Engaged To Work" means the earlier of:
  - a. The date the employee begins rendering services for the Employer and the Employer intends the employee to work for at least 20 hours a week for at least 20 weeks in a fiscal year or;
  - b. The week an employee renders services to an Employer for at least 20 hours a week for at least 20 weeks in a fiscal year.
6. "Leasing An Employee From A Third Party" means the same as "Leased from a third party" in R2-8-116.
7. "State Social Security Administrator" means the ASRS staff designated by the Board to approve 218 Agreements.
8. "Week" means 12:00 a.m. on Sunday through 11:59 p.m. on the following Saturday.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1002. Employee Membership**

- A.** For purposes of active member eligibility, an employee of an Employer becomes a member of the ASRS pursuant to A.R.S. § 38-711(23) when the employee is Engaged To Work for the Employer.
- B.** If the Employer does not provide an accurate date for which an employee was Engaged To Work pursuant to subsection (A), the ASRS shall determine that an employee's membership effective date will be the member's hire date, if provided by the Employer and within 30 days of the first pay period end date after the hire date, for which the Employer was required to submit contributions.
- C.** If the Employer does not provide a hire date pursuant to subsection (B), the effective date is the first pay period end date of contributions received for that member.
- D.** Unless a member terminates employment or retires from the ASRS, for purposes of determining active member eligibility, a member will continue to be an active member for the remainder of a fiscal year in which the employee met the requirements to be an active member in the ASRS with that Employer pursuant to A.R.S. § 38-711.
- E.** Within 30 days of employment, an employee who is eligible for ASRS membership pursuant to A.R.S. § 38-711(23) shall create a secure ASRS account and submit to the ASRS through the employee's secure ASRS account the following information:
1. The Employee's full name;
  2. The Employee's Social Security number;
  3. The Employee's date of birth;
  4. The Employee's gender;
  5. The Employee's marital status;
  6. The Employee's primary phone number;
  7. The Employee's personal email address;
  8. The Employee's current mailing address; and
  9. The Employee's designated beneficiary.
- F.** Within 30 days of a change in the member's name, the member shall submit to the ASRS through the member's secure ASRS account a Change of Name form that contains:
1. The member's full name that is on file with the ASRS;
  2. The member's Social Security number;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

3. The member's current mailing address;
  4. The member's date of birth;
  5. The member's personal email address;
  6. The member's primary phone number;
  7. The member's gender;
  8. The member's marital status;
  9. The member's retired, active, inactive, or LTD status with the ASRS;
  10. The member's new full name;
  11. The type of legal document establishing the member's new name;
  12. A copy of the legal document establishing the member's new name; and
  13. The member's dated signature.
- G.** Within 30 days of a change in the member's contact information, the member shall notify the ASRS of the change.
- H.** If an employee of an Employer meets the requirements of A.R.S. § 38-727(A)(8), the employee may elect to not participate in the ASRS.
- I.** Within 30 days after employment, an Employer whose employee is 65 years of age or older as of the date of employment and who has elected not to participate in the ASRS pursuant to subsection (H), shall submit to the ASRS through the Employer's secure ASRS account a 65+ Membership Waiver form that contains:
1. The employee's full name;
  2. The employee's Social Security number;
  3. The employee's current mailing address;
  4. The employee's date of birth;
  5. The employee's dated signature acknowledging the following statements:
    - a. The employee is electing to waive any rights to ASRS membership and the employee will not be eligible for any retirement, disability, or health insurance benefits offered by the ASRS;
    - b. The employee is not a member of the ASRS as of the date of employment; and
    - c. The employee understands that this election is irrevocable for the remainder of the employee's employment with that Employer and the time the employee works under this election is not eligible for purchase in the ASRS;
  6. The Employer's name;
  7. The date employee's employment began; and
  8. The name and dated signature of the Employer's representative.
- J.** A corrected and completed 65+ Membership Waiver form must be resubmitted to the ASRS pursuant to subsection (I) within 14 days of the date the ASRS notifies the employee that the 65+ Membership Waiver form is incorrect or incomplete.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1003. Charter School Employer Membership**

- A.** Pursuant to A.R.S. § 15-187(C), a charter school in Arizona is considered a political subdivision that is eligible to participate in the ASRS if the charter school is sponsored by:
1. A state university;
  2. A community college district;
  3. A group of community college districts;
  4. The state board of education; or
  5. The state board for charter schools.
- B.** In order to participate as an Employer in the ASRS, a charter school shall notify the ASRS in writing of the charter school's intent to join the ASRS and provide:

1. A copy of the current and active Charter Contract, including any amendments, which is approved by the entity sponsoring the charter school pursuant to subsection (A);
  2. Documentation showing the name and location of all schools authorized by the Charter Contract identified in subsection (B)(1); and
  3. Documentation showing the charter school board's approval to pursue ASRS membership and complete ASRS requirements for membership.
- C.** Upon receipt of the information contained in subsection (B), the ASRS shall determine if the charter school is eligible to participate in the ASRS. If the charter school is not eligible to participate in the ASRS, the ASRS shall send the charter school a notice of ineligibility. If the charter school is eligible to participate, the ASRS shall provide the charter school a Potential New Employer Letter.
- D.** In order to participate as an Employer in the ASRS, an eligible charter school shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
1. The current retirement plan or a statement signed by the designated authorized agent for the charter school acknowledging there is no current retirement plan.
  2. Two ASRS Agreements showing:
    - a. The legal name and current mailing address of the charter school as sponsored pursuant to subsection (A);
    - b. What amount of prior service the charter school shall purchase for employees pursuant to R2-8-1006;
    - c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
    - d. The name, title, email address, and telephone number of the designated authorized agent for the charter school;
    - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
    - f. The ASRS Agreement is binding and irrevocable;
    - g. The effective date of the ASRS Agreement;
    - h. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
    - i. The dated signature of the designated authorized agent for the charter school.
  3. Two ASRS Resolutions showing:
    - a. The legal name of the charter school as sponsored pursuant to subsection (A);
    - b. The charter school is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
    - c. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
    - d. The designated authorized agent for the charter school;
    - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- f. The dated and notarized signature of the designated authorized agent.
- 4. Two 218 Agreements either electing or declining coverage. If the charter school is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
- 5. Two 218 Resolutions, if the charter school is electing coverage pursuant to subsection (D)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- E. Upon receipt of Acceptable Documentation identified in subsection (D), the ASRS may approve the charter school's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (D) to the charter school.
- F. Any charter school that is established under the charter contract of a participating charter school shall participate in the ASRS.
- c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
- d. The name, title, email address, and telephone number of the designated authorized agent for the political subdivision or political subdivision entity;
- e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
- f. The ASRS Agreement is binding and irrevocable;
- g. The effective date of the ASRS Agreement;
- h. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
- i. The dated signature of the designated authorized agent for the political subdivision or political subdivision entity.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership**

- A. A political subdivision or political subdivision entity, other than a charter school, may be eligible to participate in the ASRS pursuant to A.R.S. §§ 38-711 and 38-729 if it notifies the ASRS in writing of the political subdivision's or political subdivision entity's intent to join the ASRS and provides to the ASRS:
  - 1. A copy of the current legal authority establishing the political subdivision or political subdivision entity;
  - 2. Documentation showing the name and location of the political subdivision or political subdivision entity; and
  - 3. Documentation showing the political subdivision or political subdivision entity has taken the necessary legal action to be eligible to participate pursuant to A.R.S. § 38-729.
- B. Upon receipt of the information contained in subsection (C), the ASRS shall determine if the political subdivision or political subdivision entity is eligible to participate in the ASRS. If the political subdivision or political subdivision entity is not eligible to participate in the ASRS, the ASRS shall send the political subdivision or political subdivision entity a notice of ineligibility. If the political subdivision or political subdivision entity is eligible to participate, the ASRS shall provide the political subdivision or political subdivision entity a Potential New Employer Letter.
- C. In order to participate as an Employer in the ASRS, an eligible political subdivision or political subdivision entity shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
  - 1. The current retirement plan or a statement signed by the designated authorized agent for the political subdivision or political subdivision entity acknowledging there is no current retirement plan.
  - 2. Two ASRS Agreements showing:
    - a. The legal name and current mailing address of the political subdivision or political subdivision entity;
    - b. What amount of prior service the political subdivision or political subdivision entity shall purchase for employees pursuant to R2-8-1006;
- D. Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.
- 3. Two ASRS Resolutions showing:
  - a. The legal name of the political subdivision or political subdivision entity;
  - b. The political subdivision or political subdivision entity is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
  - c. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
  - d. The designated authorized agent for the political subdivision or political subdivision entity;
  - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
  - f. The dated and notarized signature of the designated authorized agent.
- 4. Two 218 Agreements either electing or declining coverage. If the political subdivision or political subdivision entity is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
- 5. Two 218 Resolutions, if the political subdivision or political subdivision entity is electing coverage pursuant to subsection (C)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1005. Employer Reporting**

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- A. An Employer shall submit contribution information and contribution payments pursuant to A.R.S. § 38-735, through the Employer's secure ASRS account.
- B. Within 14 days of receiving the information contained in subsection R2-8-1002(E)(1) through (E)(3), the Employer shall:
1. Verify the information the employee provided;
  2. Confirm the employee meets membership requirements pursuant to A.R.S. § 38-711; and
  3. Submit the verified information to the ASRS through the Employer's secure ASRS account.
- C. For an Employer whose employee elects to participate in an Optional Retirement Plan in lieu of the ASRS pursuant to A.R.S. §15-1628, within 30 days of electing to participate in an Optional Retirement Plan, the Employer shall submit to the ASRS through the Employer's secure ASRS account the:
1. Employee's full name;
  2. Employee's Social Security number;
  3. Date of the employee's employment; and
  4. Date of the employee's Optional Retirement Plan election.
- D. For an Employer who has submitted information pursuant to subsection (C), within 30 days of that employee terminating employment with that Employer, the Employer shall notify the ASRS through the Employer's secure ASRS account of the employee's termination date.
- E. Within 14 days before the effective date of joining the ASRS, an Employer shall submit an initial online authorization and designation form in writing to the ASRS with the following information:
1. The Employer's name;
  2. The following information for the person authorized by the Employer to approve the Employer's Designated Employer Administrator:
    - a. The person's full name;
    - b. The person's title;
    - c. The person's phone number;
    - d. The person's email address;
    - e. The person's dated signature affirming that person has the authority to approve the Employer's Designated Employer Administrator;
  3. The full name of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  4. The title of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  5. The phone number of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  6. The email address of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  7. The dated signature of the individual the Employer is designating as the Employer's Designated Employer Administrator.
- F. An Employer's Designated Employer Administrator shall establish a new Employer's Designated Employer Administrator as needed through the Employer's secure ASRS account.
- G. Within 30 days of an Employer no longer having an Employer's Designated Employer Administrator, the Employer shall submit in writing an initial online authorization and designation form pursuant to subsection (E).
- H. Within 30 days of change in the Employer's address, the Employer shall notify the ASRS of the change through the Employer's secure ASRS account.
- I. Within 10 days of any change in the name or ownership of the Employer, the Employer shall provide written notice of the change to the ASRS through the Employer's secure ASRS account by providing the Employer's previous account information and the changes to that information.
- J. Within 30 days of any change in the character of an Employer's organizational structure, the Employer shall send to the ASRS through the Employer's secure ASRS account, written notice of the previous organizational structure and the effective changes to the Employer's organizational structure.
- K. Within 30 days of Leasing An Employee From A Third Party, an Employer shall submit the following information:
1. The employee's full name;
  2. The number of hours per week the employee works for the Employer;
  3. The title of the employee's position;
  4. A copy of the agreement showing the Employer Leasing An Employee From A Third Party; and
  5. Whether the employee is retired from the ASRS.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1006. Prior Service Purchase Cost for New Employers**

- A. Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B. The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service credit pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
1. The employee's full name;
  2. The employee's date of birth;
  3. The employee's Social Security number;
  4. The employee's current salary; and
  5. The date the employee began employment with the potential Employer.
- C. An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
1. Member's full name;
  2. Member's date of birth;
  3. Member's Social Security number;
  4. Member's date of employment;
  5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
  6. Member's current salary as of the effective date of joining the ASRS; and
  7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D. The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E. An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

F. If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**ARTICLE 11. TRANSFER OF SERVICE CREDIT****R2-8-1101. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
  - a. Member's Current Years of Credited Service;
  - b. Member's age as of the date the Member submits to the ASRS a request to transfer service credit pursuant to this Article; and
  - c. Member's most recent annual compensation.
2. "Current years of credited service" means:
  - a. For Transfer In Service, the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid; and
  - b. For transferring service credit to the Other Retirement Plan, the amount of credited service a member has earned or purchased, but does not include service credit for which the member has not yet paid.
3. "Irrevocable PDA" means the same as in R2-8-501.
4. "Funded Actuarial Present Value" means the Actuarial Present Value reduced to the extent funded on market value basis as of the most recent actuarial evaluation of the ASRS.
5. "Member's accumulated contribution account balance" means the sum of all the member's retirement contributions and any principal payments made for:
  - a. The purchase of service credit;
  - b. Contributions not withheld; and
  - c. Previous transfers of service credit.
6. "Other retirement plan" means the state retirement plans specified in A.R.S. § 38-921, other than the ASRS, or a retirement plan of a charter city as specified in A.R.S. § 38-730.
7. "Other Retirement Plan's cost" means the amount determined by the ASRS pursuant to R2-8-1102(D).
8. "Other public service" means the same as in R2-8-501.
9. "Transfer in service" means credited service with the Other Retirement Plan that a member is eligible to transfer to the ASRS pursuant to A.R.S. §§ 38-730 and 38-921.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit**

- A. A member who is eligible to Transfer In Service credit, may request to transfer service credit by providing a Transfer In form to the ASRS with the following:
1. The name of the Other Retirement Plan;

2. The date the member either terminated employment with an employer of the Other Retirement Plan or ceased to participate in the Other Retirement Plan;
3. The date the member began employment with the employer through which the member was participating in the Other Retirement Plan;
4. The number of years the member participated in the Other Retirement Plan;
5. Acknowledgement the member agrees that:
  - a. Knowingly making a false statement or falsifying or permitting falsification of any record of the ASRS with an intent to defraud ASRS is a Class 6 felony, pursuant to A.R.S. § 38-793; and
  - b. The Transfer In Service credit transaction is subject to audit and if any errors are discovered, the ASRS shall adjust a member's account, or if the member is already retired, adjustments to the member's account may affect the member's retirement benefit.

- B. Upon receipt of the information specified in subsection (A), the ASRS shall submit the information to the Other Retirement Plan and request:
1. The Other Retirement Plan's Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922;
  2. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
  3. The amount of service credit the member has accumulated in the Other Retirement Plan; and
  4. The start date and end date for the member's participation in the Other Retirement Plan.
- C. Upon receipt of the information specified in subsection (B), the ASRS shall calculate the Actuarial Present Value as specified in R2-8-506 necessary to transfer full service credit to the ASRS.
- D. The ASRS shall calculate the Other Retirement Plan's Cost as follows:
1. If the ASRS Actuarial Present Value is greater than the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
    - a. The Other Retirement Plan's Funded Actuarial Present Value; or
    - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
  2. If the ASRS Actuarial Present Value is less than or equal to the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
    - a. The ASRS Actuarial Present Value; or
    - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan.
- E. The ASRS shall compare the Other Retirement Plan's Cost to the ASRS Actuarial Present Value calculated pursuant to subsection (C) and:
1. If the Other Retirement Plan's Cost is less than the ASRS Actuarial Present Value, then the member may elect to transfer service credit to the ASRS and:
    - a. Pay the difference between the Other Retirement Plan's Cost and the ASRS Actuarial Present Value; or
    - b. Accept a proportionately reduced amount of service credit;
  2. If the Other Retirement Plan's Cost is greater than or equal to the ASRS Actuarial Present Value, then the member may elect to transfer the service to the ASRS pursuant to subsection (F).
- F. Upon completion of the comparison specified in subsections (D) and (E), the ASRS shall send the member a transfer in

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

invoice notifying the member of the member's options to complete the transfer of service credit through the member's secure ASRS account.

- G. The member may elect to complete a transfer of service credit pursuant to this Section by submitting the member's election by the election due date specified on the transfer in invoice.
- H. Upon receipt of the member's election to complete a transfer of service credit, the ASRS shall send the transfer in invoice to the Other Retirement Plan and the Other Retirement Plan shall make payment to the ASRS by submitting a check made payable to the ASRS for the Other Retirement Plan's Cost specified on the transfer in invoice by the payment due date specified on the transfer in invoice.
- I. If a member elects to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E), the member shall elect the method of payment by the payment due date specified on the transfer in invoice.
- J. A member may elect to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E) by any one or more methods specified in R2-8-512, R2-8-513, R2-8-514, or R2-8-519.
- K. For a member who elects to accept a proportionately reduced amount of service pursuant to subsection (E)(1)(b), the ASRS shall calculate the proportionately reduced amount of service credit based on the member's service credits in the Other Retirement Plan multiplied by the ratio of the Other Retirement Plan's Cost to the ASRS Actuarial Present Value.
- L. The member shall submit payment to transfer service credit pursuant to this Section by the payment due date specified on the transfer in invoice.
- M. If the member does not submit payment for the total difference in the calculations pursuant to R2-8-1102(E) by the payment due date specified on the transfer in invoice, the member may be eligible to purchase the remaining service credit as Other Public Service, and the member is not eligible to purchase the remaining service credit based on the cost specified in the transfer in invoice.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-1103. Transferring Service to Other Retirement Plans**

- A. Upon receipt of a request to transfer a member's service credit from the ASRS to the Other Retirement Plan, the ASRS shall calculate:
  1. The ASRS Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922; and
  2. The Member's Accumulated Contribution Account Balance in the ASRS.
- B. Upon completing the calculations specified in subsection (A), the ASRS shall submit the calculations and member information to the Other Retirement Plan with a due date for the Other Retirement Plan to submit a fund request to the ASRS pursuant to subsection (C).

- C. If a member elects to transfer service credit to the Other Retirement Plan, the member shall ensure that the Other Retirement Plan submits a fund request on the Other Retirement Plan's letterhead by the due date specified in subsection (B) to the ASRS with the following information:
  1. The member's full name;
  2. The last four digits of the member's Social Security number;
  3. The name of the Other Retirement Plan; and
  4. The Actuarial Present Value necessary to transfer full service credit to the Other Retirement Plan.
- D. Upon receipt of the information specified in subsection (C), the ASRS shall compare the calculations specified in subsection (A) to the Other Retirement Plan's Actuarial Present Value specified in subsection (C) and transfer funds as follows:
  1. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is greater than the ASRS Funded Actuarial Present Value specified in subsection (A), then the ASRS shall transfer the greater of:
    - a. The ASRS Funded Actuarial Present Value specified in subsection (A); or
    - b. The Member's Accumulated Contribution Account Balance in the ASRS.
  2. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is less than or equal to the ASRS Funded Actuarial Present Value, then the ASRS shall transfer the greater of:
    - a. The Other Retirement Plan's Actuarial Present Value specified in subsection (C); or
    - b. The Member's Accumulated Contribution Account Balance in the ASRS.
- E. Transferring service credit to the Other Retirement Plan pursuant to this Section constitutes a withdrawal from ASRS membership and results in a forfeiture of all other benefits under ASRS.
- F. Notwithstanding subsection (E), pursuant to A.R.S. § 38-750, a transferred employee who continues an Irrevocable PDA after transferring service credit to the Other Retirement Plan may be eligible to:
  1. Transfer service credit associated with the remaining balance of the Irrevocable PDA for which the transferred employee paid for the purchase of service credit plus interest at the Assumed Actuarial Investment Earnings Rate pursuant to A.R.S. § 38-922, not including any administrative interest charge the transferred employee paid pursuant to an Irrevocable PDA; or
  2. Receive a return of contributions plus interest as specified in R2-8-118(A), column 3, pursuant to A.R.S. § 38-740.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

### 38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means:

(a) For members whose membership began on or before December 31, 2019, the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(i) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(ii) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(iii) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(iv) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(v) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

(b) For a member whose membership began on or after January 1, 2020, only gross wages paid to a member by the employer for services rendered to the employer during the period considered as credited service, including amounts reported as wages and tips and other compensation on the member's federal form W-2 wage and tax statement, including pretax deductions, except for the following:

- (i) Payments made for accrued leave that is not being used to replace regular work hours, whether paid in a lump sum or in installments.
  - (ii) Payments made on termination from employment, whether paid in a lump sum or in installments or as a bonus or an incentive for termination or retirement.
  - (iii) Employer-paid contributions that are made to, and any distributions from, plans, programs or arrangements qualified under section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.
  - (iv) Payments for allowances.
  - (v) Reimbursements for employee business expenses or employee personal expenses.
  - (vi) Employer-paid contributions for coverage under, or distributions from, an accident, health or life insurance plan, program or arrangement.
  - (vii) Payments made in lieu of any employer-paid insurance coverage.
  - (viii) Workers' compensation, unemployment compensation payments and disability payments.
  - (ix) Merit awards pursuant to section 38-613.
  - (x) Payments paid pursuant to a court order or settlement agreement to satisfy a claim even though the amount of the payment is based on previous salary or wage levels, except if the court order or settlement agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time.
  - (xi) Payments made in the form of goods or services in lieu of gross wages.
  - (xii) Any other payment that is not reported as wages and tips and other compensation on the member's federal W-2 wage and tax statement for actual services rendered.
  - (xiii) Payments in excess of the section 415 of the internal revenue code limits established in section 38-746.
  - (xiv) Payments for any other employment benefit.
  - (xv) Payments for which employer or employee contributions have not been paid.
8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.
9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.
10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.
18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.
19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.
20. "Late retirement" means retirement after normal retirement.
21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.
22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.
23. "Member":
- (a) Means any employee of an employer on the effective date.
  - (b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.
  - (c) Means any person receiving a benefit under ASRS.
  - (d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.
  - (e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.
  - (f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:
    - (i) Is not otherwise an employee of an employer.
    - (ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.
    - (iii) Performs services under the primary direction or control of the employer.
24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government-related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

#### 38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and any member under articles 2.1 and 7 of this chapter and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.
2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.
3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.
4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.
2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.
3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

**38-783. Retired members; dependents; health insurance; premium payment; separate account; definitions**

A. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the single coverage premium of any health and accident insurance for each retired member, contingent annuitant or member with a disability of ASRS if the member elects to participate in the coverage provided by ASRS or section 38-651.01 or elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer. A contingent annuitant must be receiving a monthly retirement benefit from ASRS in order to obtain any premium payment provided by this section. The board shall pay:

1. Up to \$150 per month for a member of ASRS who is not eligible for medicare if the retired member or member with a disability has ten or more years of credited service.
2. Up to \$100 per month for each member of ASRS who is eligible for medicare if the retired member or member with a disability has ten or more years of credited service.

B. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the family coverage premium of any health and accident insurance for a retired member, contingent

annuitant or member with a disability of ASRS who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. If a member of ASRS and the member's spouse are both either retired or have disabilities under ASRS and apply for family coverage, the member who elects family coverage is entitled to receive the payments under this section as if they were both applying under a single coverage premium unless the payment under this section for family coverage is greater. Payment under this subsection is in the following amounts:

1. Up to \$260 per month if the member of ASRS and one or more dependents are not eligible for medicare.

2. Up to \$170 per month if the member of ASRS and one or more dependents are eligible for medicare.

3. Up to \$215 per month if either:

(a) The member of ASRS is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The member of ASRS is eligible for medicare and one or more dependents are not eligible for medicare.

C. In addition each retired member, contingent annuitant or member with a disability of ASRS with less than ten years of credited service and a dependent of such a retired member, contingent annuitant or member with a disability who elects to participate in the coverage provided by ASRS or section 38-651.01 or who elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 9.0 to 9.9 years of credited service, ninety percent.

2. 8.0 to 8.9 years of credited service, eighty percent.

3. 7.0 to 7.9 years of credited service, seventy percent.

4. 6.0 to 6.9 years of credited service, sixty percent.

5. 5.0 to 5.9 years of credited service, fifty percent.

6. Those with less than five years of credited service do not qualify for the benefit.

D. The board shall not pay more than the amount prescribed in this section for a member of ASRS.

E. Notwithstanding subsections A, B and C of this section, for a member who retires on or after August 2, 2012, the board shall not make a payment under this section to a retired member, contingent annuitant or member with a disability who is enrolled in an employer's active employee group health and accident insurance program either as the insured or as a dependent, except that if the retired member, contingent annuitant or member with a disability is enrolled as a dependent and the premium paid to the employer's active employee group health and accident insurance program is

not subsidized by the employer, the retired member, contingent annuitant or member with a disability is entitled to receive the amount provided in subsection A of this section.

F. The board shall establish a separate account that consists of the benefits provided by this section. The board shall not use or divert any part of the corpus or income of the account for any purpose other than the provision of and the cost of administering the benefits under this section or the self-insurance program pursuant to section 38-782 unless the liabilities of ASRS to provide the benefits are satisfied. If the liabilities of ASRS to provide the benefits described in this section and section 38-782 are satisfied, the board shall return any amount remaining in the account to the employer.

G. Payment of the benefits provided by this section is subject to the following conditions:

1. The payment of the benefits is subordinate to the payment of retirement benefits payable by ASRS.
2. The total of contributions for the benefits and actual contributions for life insurance protection, if any, shall not exceed twenty-five percent of the total actual employer and employee contributions to ASRS, less contributions to fund past service credits, after the day the account is established.
3. The board shall deposit the benefits provided by this section in the account.
4. The contributions by the employer to the account shall be reasonable and ascertainable.

H. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 1 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced to the retiring member for life. The amount of the optional premium benefit payment shall be the actuarial equivalent of the premium benefit payment to which the retired member would otherwise be entitled. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board as follows:

- (a) If the retired member names a different contingent annuitant, the optional premium benefit payment shall be adjusted to the actuarial equivalent of the original premium benefit payment based on the age of the new contingent annuitant. The adjustment shall include all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the retired member's date of retirement. Payment of this adjusted premium benefit payment shall continue under the provisions of the optional premium benefit payment previously elected by the retired member. A retired member cannot name a different contingent annuitant if the retired member has at any time rescinded the optional form of health and accident insurance premium benefit payment.

- (b) If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall

continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

I. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 2 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced with payments for five, ten or fifteen years that are not dependent on the continued lifetime of the retired member but whose payments continue for the retired member's lifetime beyond the five, ten or fifteen year period. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board. If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

J. If, at the time of retirement, a retiring member does not elect to receive a reduced premium benefit payment pursuant to subsection H or I of this section, the retired member's contingent annuitant is not eligible at any time for the optional premium benefit payment.

K. If a member who is eligible for benefits pursuant to this section forfeits the member's interest in the account before the termination of ASRS, an amount equal to the amount of the forfeiture shall be applied as soon as possible to reduce employer contributions to fund the benefits provided by this section.

L. A contingent annuitant is not eligible for any premium benefit payment if the contingent annuitant was not enrolled in an eligible health and accident insurance plan at the time of the retired member's death or if the contingent annuitant is not the dependent beneficiary or insured surviving dependent as provided in section 38-782.

M. For the purposes of this section:

1. "Account" means the separate account established pursuant to subsection F of this section.
2. "Credited service" includes prior service.
3. "Prior service" means service for this state or a political subdivision of this state before membership in the defined contribution program administered by ASRS.
4. "Subsidized" means a portion of the total premium is paid by the employer, but does not necessarily mean a plan in which the employer uses blended rates to determine the total premium.

### 38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be

excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means:

(a) For members whose membership began on or before December 31, 2019, the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(i) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(ii) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(iii) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(iv) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(v) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

(b) For a member whose membership began on or after January 1, 2020, only gross wages paid to a member by the employer for services rendered to the employer during the period considered as credited service, including amounts reported as wages and tips and other compensation on the member's federal form W-2 wage and tax statement, including pretax deductions, except for the following:

(i) Payments made for accrued leave that is not being used to replace regular work hours, whether paid in a lump sum or in installments.

(ii) Payments made on termination from employment, whether paid in a lump sum or in installments or as a bonus or an incentive for termination or retirement.

(iii) Employer-paid contributions that are made to, and any distributions from, plans, programs or arrangements qualified under section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.

(iv) Payments for allowances.

(v) Reimbursements for employee business expenses or employee personal expenses.

(vi) Employer-paid contributions for coverage under, or distributions from, an accident, health or life insurance plan, program or arrangement.

(vii) Payments made in lieu of any employer-paid insurance coverage.

(viii) Workers' compensation, unemployment compensation payments and disability payments.

(ix) Merit awards pursuant to section 38-613.

(x) Payments paid pursuant to a court order or settlement agreement to satisfy a claim even though the amount of the payment is based on previous salary or wage levels, except if the court order or settlement agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time.

(xi) Payments made in the form of goods or services in lieu of gross wages.

(xii) Any other payment that is not reported as wages and tips and other compensation on the member's federal W-2 wage and tax statement for actual services rendered.

(xiii) Payments in excess of the section 415 of the internal revenue code limits established in section 38-746.

(xiv) Payments for any other employment benefit.

(xv) Payments for which employer or employee contributions have not been paid.

8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.

9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.

10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the

date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.

18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.

19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.

20. "Late retirement" means retirement after normal retirement.

21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.

22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.

23. "Member":

(a) Means any employee of an employer on the effective date.

(b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

(c) Means any person receiving a benefit under ASRS.

(d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.

(e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.

(f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:

(i) Is not otherwise an employee of an employer.

(ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.

(iii) Performs services under the primary direction or control of the employer.

24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal

year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government-related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

41-1092.01. Office of administrative hearings; director; powers and duties; fund

A. An office of administrative hearings is established.

B. The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.

C. The director shall:

1. Serve as the chief administrative law judge of the office.

2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.

3. Subject to chapter 4, article 4 of this title, hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.

4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.

5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act. The director shall provide a copy of the report to the secretary of state.

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.

7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.

8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives and provide a copy of this report to the secretary of state by December 1 for the prior fiscal year:

(a) The number of administrative law judge decisions rejected or modified by agency heads.

(b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.

(c) By agency, the number and type of violations of section 41-1009.

10. Schedule hearings pursuant to section 41-1092.05 on the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.

D. The director shall not require legal representation to appear before an administrative law judge.

E. Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings. All other agencies shall contract for services and personnel of the office to conduct administrative hearings.

F. An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.

G. Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.

H. The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:

1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in

the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

I. If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges. These temporary administrative law judges are not employees of this state.

J. The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article. The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties. Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision. For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.

K. The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.

L. The office shall receive complaints against a county, a local government as defined in section 9-1401 or a video service provider as defined in section 9-1401 or 11-1901 and shall comply with the duties imposed on the office pursuant to title 9, chapter 13 for complaints involving local governments and title 11, chapter 14 for complaints involving counties.

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.
8. The department of transportation, except as provided in title 28, chapter 30, article 2.
9. The department of economic security except as provided in section 46-458.

10. The department of revenue regarding:

(a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to either:

(a) Applications for issuance or renewal of a certificate and discipline of certificate holders and noncertificated persons pursuant to sections 15-203, 15-505, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

(b) The Arizona empowerment scholarship account program pursuant to title 15, chapter 19.

14. The board of fingerprinting.

15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

41-1092.04. Service of documents

Unless otherwise provided in this article, every notice or decision under this article shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the agency and every other party to the action to the party's last address of record with the agency. Each party shall inform the agency and the office of any change of address within five days of the change.

41-1092.05. Scheduling of hearings; prehearing conferences

A. Except as provided in subsections B and C, hearings for:

1. Appealable agency actions shall be held within sixty days after the notice of appeal is filed.
2. Contested cases shall be held within sixty days after the agency's request for a hearing.

B. Hearings for appealable agency actions of or contested cases with self-supporting regulatory boards that meet quarterly or less frequently shall be held at the next meeting of the board after the board receives the written decision of an administrative law judge or the issuance of the notice of hearing, except that:

1. If the decision of the administrative law judge is received or the notice of hearing is issued within thirty days before the board meets, the hearing shall be held at the following meeting of the board.
2. If good cause is shown, the hearing may be held at a later meeting of the board.

C. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.

D. The agency shall prepare and serve a notice of hearing on all parties to the appeal or contested case at least thirty days before the hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. After the initial notice and on application, a more definite and detailed statement shall be furnished.

E. Notwithstanding subsection D, a hearing shall be expedited as provided by law or upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal or contested case have actual notice of the hearing date. Any party to the appeal or contested case may file a motion with the director asserting the party's right to an expedited hearing. The right to an expedited hearing shall be listed on any abatement order. The Arizona health care cost containment system administration may file a motion with every member grievance and eligibility appeal that cites federal law and that requests that a hearing be set within thirty days after the motion is filed.

F. Prehearing conferences may be held to:

1. Clarify or limit procedural, legal or factual issues.
2. Consider amendments to any pleadings.
3. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.
4. Obtain stipulations or rulings regarding testimony, exhibits, facts or law.
5. Schedule deadlines, hearing dates and locations if not previously set.
6. Allow the parties opportunity to discuss settlement.

**41-1092.06. Appeals of agency actions and contested cases; informal settlement conferences; applicability**

A. If requested by the appellant of an appealable agency action or the respondent in a contested case, the agency shall hold an informal settlement conference within fifteen days after receiving the request. A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing. If an informal settlement conference is requested, the agency shall notify the office of the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F. The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.

B. If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference. The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.

**41-1092.07. Hearings**

A. A party to a contested case or appealable agency action may file a nonperemptory motion with the director to disqualify an office administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.

B. The parties to a contested case or appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.

C. The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The administrative law judge may administer oaths and affirmations to witnesses.

D. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative

evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

E. All hearings shall be recorded. The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the agency's expense. Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

F. Unless otherwise provided by law, the following apply:

1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.

2. Copies of documentary evidence may be received in the discretion of the administrative law judge. On request, parties shall be given an opportunity to compare the copy with the original.

3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.

4. On application of a party or the agency and for use as evidence, the administrative law judge may permit a deposition to be taken, in the manner and on the terms designated by the administrative law judge, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the administrative law judge if the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in court, unless otherwise provided by law or agency rule. Notwithstanding section 12-2212, subpoenas, depositions or other discovery shall not be permitted except as provided by this paragraph or subsection C of this section.

5. Informal disposition may be made by stipulation, agreed settlement, consent order or default.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

7. A final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Conclusions of law shall specifically address the agency's authority to make the decision consistent with section 41-1030.

G. Except as otherwise provided by law:

1. At a hearing on an agency's denial of a license or permit or a denial of an application or request for modification of a license or permit, the applicant has the burden of persuasion.

2. At a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.

3. At a hearing on an agency's imposition of fees or penalties or any agency compliance order, the agency has the burden of persuasion.

4. At a hearing held pursuant to chapter 23 or 24 of this title, the appellant or claimant has the burden of persuasion.

H. Subsection G of this section does not affect the law governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.

**41-1092.08. Final administrative decisions; review; exception**

A. The administrative law judge of the office shall issue a written decision within twenty days after the hearing is concluded. The written decision shall contain a concise explanation of the reasons supporting the decision, including the findings of fact and conclusions of law. The administrative law judge shall serve a copy of the decision on the agency. On request of the agency, the office shall also transmit to the agency the record of the hearing as described in section 12-904, except as provided in section 41-1092.01, subsection F.

B. Within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, the head of the agency, executive director, board or commission may review the decision and accept, reject or modify it. If the head of the agency, executive director, board or commission declines to review the administrative law judge's decision, the agency shall serve a copy of the decision on all parties. If the head of the agency, executive director, board or commission rejects or modifies the decision, the agency head, executive director, board or commission must file with the office, except as provided in section 41-1092.01, subsection F, and serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification of each finding of fact or conclusion of law. If there is a rejection or modification of a conclusion of law, the written justification shall be sent to the president of the senate and the speaker of the house of representatives.

C. A board or commission whose members are appointed by the governor may review the decision of the agency head, as provided by law, and make the final administrative decision.

D. Except as otherwise provided in this subsection, if the head of the agency, the executive director or a board or commission does not accept, reject or modify the administrative law judge's decision within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, as evidenced by receipt of such action by the office by the thirtieth day, the office shall certify the administrative law judge's decision as the final administrative decision. If the board or commission meets monthly or less frequently, if the office sends the administrative law judge's decision at least thirty days before the next meeting of the board or commission and if the board or commission does not accept, reject or modify the administrative law judge's decision at the next meeting of the board or commission, as evidenced by receipt of such action by the office within five days after the meeting, the office shall certify the administrative law judge's decision as the final administrative decision.

E. For the purposes of subsections B and D of this section, a copy of the administrative law judge's decision is sent on personal delivery of the decision or five days after the decision is mailed to the head of the agency, executive director, board or commission.

F. The decision of the agency head is the final administrative decision unless either:

1. The agency head, executive director, board or commission does not review the administrative law judge's decision pursuant to subsection B of this section or does not reject or modify the administrative law judge's decision as provided in subsection D of this section, in which case the administrative law judge's decision is the final administrative decision.

2. The decision of the agency head is subject to review pursuant to subsection C of this section.

G. If a board or commission whose members are appointed by the governor makes the final administrative decision as an administrative law judge or on review of the decision of the agency head, the decision is not subject to review by the head of the agency.

H. A party may appeal a final administrative decision pursuant to title 12, chapter 7, article 6, except as provided in section 41-1092.09, subsection B and except that if a party has not requested a hearing on receipt of a notice of appealable agency action pursuant to section 41-1092.03, the appealable agency action is not subject to judicial review.

I. This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

#### 41-1092.09. Rehearing or review

A. Except as provided in subsection B of this section:

1. A party may file a motion for rehearing or review within thirty days after service of the final administrative decision.

2. The opposing party may file a response to the motion for rehearing within fifteen days after the date the motion for rehearing is filed.

3. After a hearing has been held and a final administrative decision has been entered pursuant to section 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

B. A party to an appealable agency action of or contested case with a self-supporting regulatory board shall exhaust the party's administrative remedies by filing a motion for rehearing or review within thirty days after the service of the administrative decision that is subject to rehearing or review in order to be eligible for judicial review pursuant to title 12, chapter 7, article 6. The board shall notify the parties in the administrative decision that is subject to rehearing or review that a failure to file a motion for rehearing or review within thirty days after service of the decision has the effect of prohibiting the parties from seeking judicial review of the board's decision.

C. Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address.

D. Except as provided in this subsection, the agency head, executive director, board or commission shall rule on the motion within fifteen days after the response to the motion is filed or, if a response is not filed, within five days of the expiration of the response period. A self-supporting regulatory board shall rule on the motion within fifteen days after the response to the motion is filed or at the board's next meeting after the motion is received, whichever is later.

#### 41-1092.10. Compulsory testimony; privilege against self-incrimination

A. A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person that would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege before the production of the testimony or papers.

B. If a person asserts the privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, the office or agency as provided in section 41-1092.01, subsection F may issue, with the prior written approval of the attorney general, a written order compelling the testimony or production of documents in proceedings and investigations before the office or agency as provided in section 41-1092.01, subsection F or apply to the appropriate court for such an order in other actions or proceedings.

C. Evidence produced pursuant to subsection B of this section is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing the person's private papers.

#### 41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal

A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

#### 41-1092.12. Private right of action; recovery of costs and fees; definitions

A. If an agency takes an action against a party that is arbitrary, capricious or not in accordance with law, the action is an appealable agency action if all of the following apply:

1. Within ten days after the action that is arbitrary, capricious or not in accordance with law, the party notifies the director of the agency in writing of the party's intent to file a claim pursuant to this section. This notice shall include a description of the action the party claims to be arbitrary,

capricious or not in accordance with law and reasons why the action is arbitrary, capricious or not in accordance with law.

2. The agency continues the action that is arbitrary, capricious or not in accordance with law more than ten days after the agency receives the notice.

3. The action is not excluded from the definition of appealable agency action as defined in section 41-1092.

B. This section only applies if an administrative remedy or an administrative or a judicial appeal of final agency action is not otherwise provided by law.

C. If the party prevails, the agency shall pay reasonable costs and fees to the party from any monies appropriated to the agency and available for that purpose or from other operating monies of the agency. If the agency fails or refuses to pay the award within fifteen days after the demand, and if no further review or appeal of the award is pending, the prevailing party may file a claim with the department of administration. The department of administration shall pay the claim within thirty days in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1, except that the agency is responsible for the total amount awarded and shall pay it from its operating monies. If the agency had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the agency's operating appropriation for the following fiscal year by the amount of the award and shall appropriate that amount to the department of administration as reimbursement for the loss.

D. If the administrative law judge determines that the appealable agency action is frivolous, the administrative law judge may require the party to pay reasonable costs and fees to the agency in responding to the appeal filed before the office of administrative hearings.

E. For the purposes of this section:

1. "Action against the party" means any of the following that results in the expenditure of costs and fees:

(a) A decision.

(b) An inspection.

(c) An investigation.

(d) The entry of private property.

2. "Agency" means the department of environmental quality established pursuant to title 49, chapter 1, article 1.

3. "Costs and fees" means reasonable attorney and professional fees.

4. "Party" means an individual, partnership, corporation, association and public or private organization at whom the action was directed and who has expended costs and fees as a result of the action against the party.

**ARIZONA STATE RETIREMENT SYSTEM**

Title 2, Chapter 8

**Amend:** R2-8-803, R2-8-808, R2-8-809



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 13, 2022

**SUBJECT:** Arizona State Retirement System Board (ASRS)  
Title 2, Chapter 8, Article 8

**Amend:** R2-8-803, R2-8-808, R2-8-809

---

### **Summary:**

This regular rulemaking from the ASRS seeks to amend rules in Title 2, Chapter 8, Article 8 regarding Recovery of Overpayments. The ASRS is required to correct any errors resulting in a member receiving more than the benefits they are eligible to receive pursuant to statute. In this rulemaking the ASRS is seeking to amend its overpayment rules in order to clarify how the ASRS may correct an overpayment error related to a health insurance premium benefit and Long-term Disability benefits. These amendments will increase understandability of how the ASRS may recover overpayments.

The ASRS is seeking a regular 60-day delayed effective date. The ASRS received approval from the rulemaking moratorium to initiate this rulemaking on June 1, 2021 and final approval to submit this rulemaking to the Council on February 11, 2022.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The ASRS cites both general and specific statutory authority for the rules.

2. **Do the rules establish a new fee or contain a fee increase?**

No, this rulemaking does not establish a new fee and does not contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The ASRS did not review or rely on a study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

There is little to no economic, small business, or consumer impact, other than the minimal cost to the Arizona State Retirement System (ASRS) to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. Clarifying how the ASRS may collect an outstanding overpayment amount in various situations, will increase understandability of the statutory requirements in A.R.S. § 38-765, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members have notice about how their benefits may be affected by an outstanding overpayment and how the ASRS will collect an overpayment amount. Thus, the economic impact is minimized.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.

6. **What are the economic impacts on stakeholders?**

All members of the ASRS, as well as their beneficiaries, will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 627,975.

Specifically, retired members, beneficiaries, and alternate payees who received an overpayment from the ASRS will be affected by this rulemaking. These rules will clarify how the ASRS may collect an overpayment from various benefits and other methods of collection. Such clarification will benefit retired members, beneficiaries, and alternate

payees by increasing public understanding of how the ASRS will collect overpayment amounts and how an individual's benefits may be affected by such collection.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The ASRS did not make any changes to the rule between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking.

8. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

No, the ASRS indicates they did not receive any written comments regarding this rulemaking.

9. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable, the rules do not require a permit.

10. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable, there are no corresponding federal laws to the rules.

11. **Conclusion**

In this rulemaking the ASRS is seeking to amend its overpayment rules in order to clarify how the ASRS may correct an overpayment error related to a health insurance premium benefit and Long-term Disability benefits. These amendments will result in rules that are more clear, concise, understandable, and consistent with other rules and statutes.

The ASRS is seeking a regular 60-day delayed effective date. Council staff recommends approval of this rulemaking.

March 22, 2022

Ms. Nicole Sornsin, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 2. Administration  
Chapter 8. State Retirement System Board**

Dear Ms. Sornsin:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on December 20, 2021 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.
3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.
4. Immediate effective date: An immediate effective date is requested pursuant to A.R.S. § 41-1032(A).
5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.
6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.
7. List of documents enclosed:
  - a. Cover letter signed by the Board's Assistant Director;
  - b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
  - c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,



Jeremiah Scott  
Assistant Director

**NOTICE OF FINAL RULEMAKING**  
**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**PREAMBLE**

<b><u>1. Articles, Parts, and Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
R2-8-803	Amend
R2-8-808	Amend
R2-8-809	Amend

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

Authorizing statute: A.R.S. § 38-714(E)(4)  
Implementing statutes: A.R.S. §§ 38-711 et seq.

**3. The effective date for the rules:**

**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):**

None

**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: 27 A.A.R. 2701, November 19, 2021

Notice of Proposed Rulemaking: 27 A.A.R. 2689, November 19, 2021

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

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Ste. 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039

E-Mail: [Ruleswriter@azasrs.gov](mailto:Ruleswriter@azasrs.gov)

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

The ASRS needs to amend its rules relating to Overpayments. The ASRS is required to correct any errors resulting in a member receiving more than the benefits they are eligible to receive pursuant to statute. In particular, the ASRS needs to amend its overpayments rules to clarify how the ASRS may correct an overpayment error related to a health insurance premium benefit and Long-term Disability (LTD) benefits. The ASRS also needs to make additional clarifying changes to ensure its rules are consistent regarding overpayment requirements. These rules will increase understandability of how the ASRS may recover an overpayment.

**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:**

No study was reviewed.

**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 ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies in further detail how the ASRS may recover an overpayment.

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

None

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

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on December 20, 2021.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

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

Not applicable.

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

**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**  
**ARTICLE 8. RECOVERY OF OVERPAYMENTS**

Section

- R2-8-803. Reimbursement of Overpayments
- R2-8-808. Collection of Overpayments by the Attorney General
- R2-8-809. Collection of Overpayments by the Arizona Department of Revenue

## ARTICLE 8. RECOVERY OF OVERPAYMENTS

### R2-8-803. Reimbursement of Overpayments

- A. Upon the ASRS discovering that it has made an overpayment to a an Employer, member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B. A person, other than Employer, who reimburses the ASRS for an overpayment shall do so by remitting a check or money order, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C. An Employer that reimburses the ASRS for an overpayment shall do so by remitting payment through the Employer's secure ASRS account, or by check or money order made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- ~~C.D.~~ If the ASRS is unable to collect the amount of an overpayment by reducing future payments to Employers, members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.
- ~~D.E.~~ A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.
- F. If an Employer, member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS may reduce a Health Insurance Premium Benefit that is paid pursuant to Article 2.

**R2-8-808. Collection of Overpayments by the Attorney General**

If an Employer, a member, survivor, or alternate payee does not reimburse the ASRS for an overpayment pursuant to ~~R2-8-802~~R2-8-803, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

**R2-8-809. Collection of Overpayments by the Arizona Department of Revenue**

If an Employer, a member, survivor, or alternate payee does not reimburse the ASRS for an overpayment pursuant to ~~R2-8-802~~R2-8-803, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

# ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>

## TITLE 2. ADMINISTRATION

### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

#### 1. Identification of the rulemaking:

The ASRS needs to amend its rules relating to Overpayments. The ASRS is required to correct any errors resulting in a member receiving more than the benefits they are eligible to receive pursuant to statute. In particular, the ASRS needs to amend its overpayments rules to clarify how the ASRS may correct an overpayment error related to a health insurance premium benefit and Long-term Disability (LTD) benefits. The ASRS also needs to make additional clarifying changes to ensure its rules are consistent regarding overpayment requirements. These rules will increase understandability of how the ASRS may recover an overpayment.

#### a. The conduct and its frequency of occurrence that the rule is designed to change:

Within the past fiscal year, approximately 1,617 members received an overpayment from the ASRS totaling approximately \$5.8 million. However, the ASRS collected approximately \$3.2 million owed to the agency as a result of the agency providing an overpayment to an individual in previous years. Overpayments may occur as the result of LTD claims for which the member must reimburse the ASRS if the member receives Social Security Disability benefits. Overpayments may also occur if there is missing or inaccurate information on file when a member retires or when the ASRS issues health insurance premium benefits. Finally, an overpayment may occur if the ASRS pays retirement benefits to a member who has deceased. Members and employers seem to misunderstand how the ASRS collects overpayment amounts from various benefits payments. The ASRS receives numerous

---

<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

inquiries regarding the collection of overpayments such as how the member's benefits will be affected and how members may repay overpayment amounts. The ASRS needs to update its rules to clarify how the ASRS collects overpayment amounts.

- b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

Members are confused about how the ASRS collects overpayment amounts. In particular, members seem to misunderstand how their benefits may be affected if they receive an overpayment that must then be collected on a later date. In the past fiscal year, the ASRS has received approximately 22 appeals related to the collection of overpayments. After the ASRS receives all necessary documentation, a typical overpayment appeal requires approximately 10 days for the ASRS to review. By promulgating these rules, members will have a better understanding of the various methods the ASRS may use to collect an overpayment amount. Increasing understanding of how the ASRS collects overpayments from various benefits and/or property should reduce appeals that arise out of members' misconceptions.

- c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify how the ASRS may collect an overpayment amount, thereby increasing understandability of how members' benefits may be affected and increasing the efficiency of the administration. Clarifying how the ASRS collects overpayment amounts will ensure that collection efforts are processed more efficiently. As discussed above and below, these rules will increase the clarity and effectiveness of collecting overpayments, which should result in reducing confusion, as well as any potential administrative delay caused by a misunderstanding that the member must repay an overpayment amount.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. Clarifying how the ASRS may collect an outstanding overpayment amount in various situations, will increase understandability of the statutory requirements in A.R.S. § 38-765, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members have notice about how their benefits may be affected by an outstanding overpayment and how the ASRS will collect an overpayment amount. Thus, the economic impact is minimized.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-mail: [JessicaT@azasrs.gov](mailto:JessicaT@azasrs.gov)

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members of the ASRS, as well as their beneficiaries, will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 627,975.

Specifically, retired members, beneficiaries, and alternate payees who received an overpayment from the ASRS will be affected by this rulemaking. These rules will clarify how the ASRS may collect an overpayment from various benefits and other methods of collection. Such clarification will benefit retired members, beneficiaries, and alternate payees by increasing public understanding of how the ASRS will collect

overpayment amounts and how an individual's benefits may be affected by such collection.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

This rulemaking does not directly affect state agencies and the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

- c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment.

7. Impact on small businesses<sup>2</sup>:

- a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.

- b. Administrative and other costs required for compliance with the rulemaking:

Not applicable.

---

<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(20).

- c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

- 8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS retired members, beneficiaries, and Employers are directly affected by the rulemaking. The effect has been previously described above.

- 9. Probable effects on state revenues:

There will be no effect on state revenues.

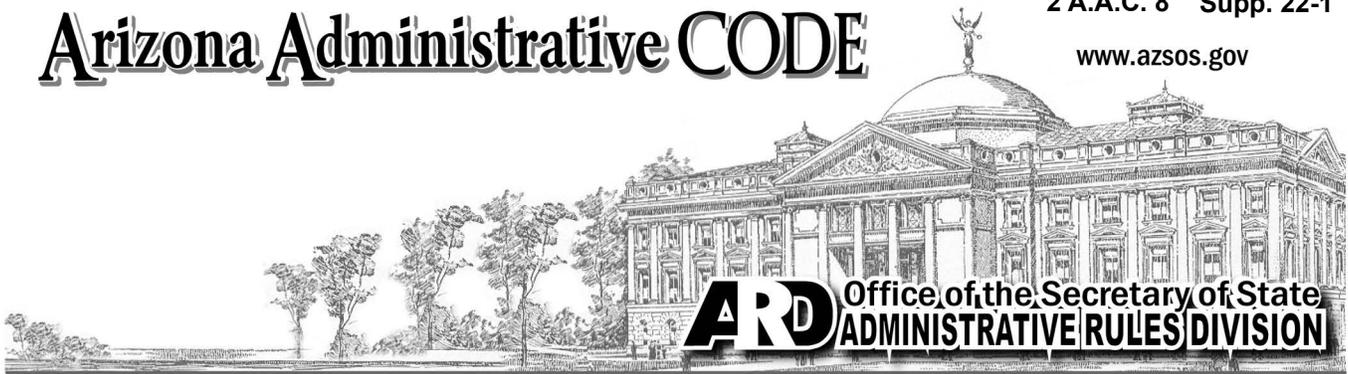
- 10. Less intrusive or less costly alternative methods considered:

The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.

# Arizona Administrative CODE

2 A.A.C. 8 Supp. 22-1

[www.azsos.gov](http://www.azsos.gov)



## TITLE 2. ADMINISTRATION

### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

The table of contents on page one contains links to the referenced page numbers in this Chapter.  
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1 through March 31, 2022

<a href="#">R2-8-401.</a>	<a href="#">Definitions .....</a>	<a href="#">31</a>	<a href="#">R2-8-403.</a>	<a href="#">Letters of Appeal; Request for a Hearing of an Appealable Agency Action .....</a>	<a href="#">31</a>
---------------------------	-----------------------------------	--------------------	---------------------------	---	--------------------

#### Questions about these rules? Contact:

Board: Arizona State Retirement System  
Address: 3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Website: <https://www.azasrs.gov>  
Name: Jessica A.R. Thomas, Rules Writer  
Telephone: (602) 240-2039  
E-mail: [Ruleswriter@azasrs.gov](mailto:Ruleswriter@azasrs.gov)

#### The release of this Chapter in Supp. 22-1 replaces Supp. 21-1, 1-53 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

---

### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

### RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, [www.azsos.gov](http://www.azsos.gov) under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### PERSONAL USE/COMMERCIAL USE

This Chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.*

Administrative Rules Division  
 The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TTITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

Authority: A.R.S. § 38-701 et seq.

**Supp. 22-1**

**CHAPTER TABLE OF CONTENTS**

**ARTICLE 1. RETIREMENT SYSTEM**

Section

R2-8-101. Repealed ..... 4

R2-8-102. Repealed ..... 4

R2-8-103. Repealed ..... 4

R2-8-104. Definitions ..... 4

R2-8-105. Repealed ..... 4

R2-8-106. Reserved ..... 4

R2-8-107. Reserved ..... 4

R2-8-108. Reserved ..... 4

R2-8-109. Reserved ..... 4

R2-8-110. Reserved ..... 4

R2-8-111. Reserved ..... 4

R2-8-112. Reserved ..... 4

R2-8-113. Emergency Expired ..... 4

R2-8-114. Emergency Expired ..... 5

R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death 5

R2-8-116. Alternate Contribution Rate ..... 6

R2-8-117. Return to Work After Retirement ..... 7

R2-8-118. Application of Interest Rates ..... 7

R2-8-119. Expired ..... 8

R2-8-120. Repealed ..... 8

R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice ..... 8

R2-8-122. Remittance of Contributions ..... 8

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets ..... 8

Table 1. Expired ..... 9

Table 2. Expired ..... 9

Table 3. Repealed ..... 9

Table 3A. Expired ..... 9

Table 3B. Expired ..... 9

Table 4. Expired ..... 9

Table 4A. Repealed ..... 10

Table 4B. Repealed ..... 10

Table 4C. Repealed ..... 10

Table 5. Expired ..... 10

Table 6. Expired ..... 10

Table 7. Expired ..... 10

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations ..... 10

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations ..... 11

R2-8-126. Retirement Application ..... 12

R2-8-127. Re-Retirement Application ..... 14

R2-8-128. Joint and Survivor Retirement Benefit Options 15

R2-8-129. Period Certain and Life Annuity Retirement Options ..... 15

R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant ..... 15

R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation .....17

R2-8-132. Survivor Benefit Options .....18

R2-8-133. Survivor Benefit Applications .....19

Table 1. Repealed .....21

Table 2. Repealed .....21

Table 3. Repealed .....21

Table 4. Repealed .....22

Table 5. Repealed .....22

Table 6. Repealed .....22

Table 7. Repealed .....22

Table 8. Repealed .....22

Table 9. Repealed .....22

Table 10. Repealed .....22

Table 11. Repealed .....22

Exhibit A. Repealed .....22

Exhibit C. Repealed .....23

Exhibit G. Repealed .....24

Exhibit H. Repealed .....25

Exhibit I. Repealed .....25

Exhibit J. Repealed .....25

Exhibit K. Repealed .....25

**ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**

*Article 2, consisting of R2-8-201 through R2-8-207, made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017; under the authority of A.R.S. § 38-714(E)(4) (Supp. 17-2).*

*Article 2, consisting of R2-8-201 through R2-8-207, made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2).*

Section

R2-8-201. Definitions .....26

R2-8-202. Premium Benefit Eligibility and Benefit Determination .....27

R2-8-203. Payment of Premium Benefit .....27

R2-8-204. Premium Benefit Calculation .....28

R2-8-205. Premium Benefit Documentation .....28

R2-8-206. Six-Month Reimbursement Program .....28

R2-8-207. Optional Premium Benefit .....29

**ARTICLE 3. LONG-TERM DISABILITY**

*Article 3, consisting of R2-8-301 through R2-8-306, made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).*

Section

R2-8-301. Definitions .....30

R2-8-302. Application for Long-Term Disability Benefit ...30

R2-8-303. Long-Term Disability Calculation .....30

R2-8-304. Payment of Long-Term Disability Benefit .....30

R2-8-305. Social Security Disability Appeal .....31

R2-8-306. Approval of Social Security Disability .....31

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**

*Article 4, consisting of R2-8-401 through R2-8-405, made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).*

Section	
R2-8-401.	Definitions ..... 31
R2-8-402.	General Procedures ..... 31
R2-8-403.	Letters of Appeal; Request for a Hearing of an Appealable Agency Action ..... 31
R2-8-404.	Board Decisions on Hearings before the Office of Administrative Hearings ..... 32
R2-8-405.	Motion for Rehearing Before the Board; Motion for Review of a Final Decision ..... 32

**ARTICLE 5. PURCHASING SERVICE CREDIT**

*Article 5, consisting of R2-8-501 through R2-8-521, made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2).*

Section	
R2-8-501.	Definitions ..... 33
R2-8-502.	Request to Purchase Service Credit and Notification of Cost ..... 34
R2-8-503.	Requirements Applicable to All Service Credit Purchases ..... 34
R2-8-504.	Service Credit Calculation for Purchasing Service Credit ..... 35
R2-8-505.	Restrictions on Purchasing Overlapping Service Credit ..... 35
R2-8-506.	Cost Calculation for Purchasing Service Credit ..... 35
R2-8-507.	Required Documentation and Calculations for Forfeited Service Credit ..... 35
R2-8-508.	Required Documentation and Calculations for Leave of Absence Service Credit ..... 35
R2-8-509.	Required Documentation and Calculations for Military Service Credit ..... 36
R2-8-510.	Required Documentation and Calculations for Military Call-up Service Credit ..... 36
R2-8-511.	Required Documentation and Calculations for Other Public Service Credit ..... 37
R2-8-512.	Purchasing Service Credit by Check, Cashier's Check, or Money Order ..... 38
R2-8-513.	Purchasing Service Credit by Irrevocable PDA ..... 38
R2-8-513.01.	Irrevocable PDA and Transfer of Employment to a Different Employer ..... 39
R2-8-513.02.	Termination Date ..... 39
R2-8-514.	Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer ..... 40
R2-8-515.	Repealed ..... 41
R2-8-516.	Expired ..... 41
R2-8-517.	Expired ..... 41
R2-8-518.	Repealed ..... 41
R2-8-519.	Purchasing Service Credit by Termination Pay ..... 41
R2-8-520.	Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA ..... 42
R2-8-521.	Adjustment of Errors ..... 42

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**

*Article 6, consisting of R2-8-601 through R2-8-607, made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1).*

Section	
---------	--

R2-8-601.	Definitions .....42
R2-8-602.	Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements .....42
R2-8-603.	Petition for Rulemaking .....42
R2-8-604.	Review of a Rule, Agency Practice, or Substantive Policy Statement .....42
R2-8-605.	Objection to Rule Based Upon Economic, Small Business and Consumer Impact .....43
R2-8-606.	Oral Proceedings .....43
R2-8-607.	Petition for Delayed Effective Date .....43

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**

*Article 7, consisting of R2-8-701 through R2-8-709, made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).*

Section	
R2-8-701.	Definitions .....43
R2-8-702.	General Information .....44
R2-8-703.	Employer's Discovery of Error .....44
R2-8-704.	Member's Discovery of Error .....44
R2-8-705.	ASRS' Discovery of Error .....45
R2-8-706.	Determination of Contributions Not Withheld .....45
R2-8-707.	Submission of Payment .....45
R2-8-708.	Expired .....45
R2-8-709.	Repealed .....45

**ARTICLE 8. RECOVERY OF OVERPAYMENTS**

*Article 8, consisting of R2-8-801 through R2-8-810, made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).*

Section	
R2-8-801.	Definitions .....45
R2-8-802.	Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount .....46
R2-8-803.	Reimbursement of Overpayments .....46
R2-8-804.	Collection of Overpayments from Forfeiture .....46
R2-8-805.	Collection of Overpayments from Retirement Benefit .....46
R2-8-806.	Collection of Overpayments from Survivor Benefit .....47
R2-8-807.	Collection of Overpayments from LTD Benefit .....47
R2-8-808.	Collection of Overpayments by the Attorney General .....47
R2-8-809.	Collection of Overpayments by the Arizona Department of Revenue .....47
R2-8-810.	Collection of Overpayments by Garnishment or Levy .....47

**ARTICLE 9. COMPENSATION**

*Article 9, consisting of new Sections R2-8-901 through R2-8-904, made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 20-1).*

*Article 9, consisting of R2-8-901 through R2-8-905, made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).*

*Article 9, consisting of R2-8-901 through R2-8-905, expired at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).*

Section	
R2-8-901.	Definitions .....47
R2-8-902.	Remitting Contributions .....47
R2-8-903.	Accrual of Credited Service .....47
R2-8-904.	Compensation from An Additional Employer .....48
R2-8-905.	Expired .....48

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 10. MEMBERSHIP

Article 10, consisting of Sections R2-8-1001 through R2-8-1005, made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

Section

R2-8-1001.	Definitions .....	48
R2-8-1002.	Employee Membership .....	48
R2-8-1003.	Charter School Employer Membership .....	49
R2-8-1004.	Other Political Subdivision and Political Subdivision Entity Employer Membership .....	50

R2-8-1005.	Employer Reporting .....	50
R2-8-1006.	Prior Service Purchase Cost for New Employers ... .....	51

ARTICLE 11. TRANSFER OF SERVICE CREDIT

Section

R2-8-1101.	Definitions .....	52
R2-8-1102.	Required Documentation and Calculations for Transfer In Service Credit .....	52
R2-8-1103.	Transferring Service to Other Retirement Plans..	53

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**ARTICLE 1. RETIREMENT SYSTEM****R2-8-101. Repealed****Historical Note**

Former Rule, Social Security Regulation 1; Former Section R2-8-01 renumbered as Section R2-8-101 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (A) and (C) effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-102. Repealed****Historical Note**

Former Rule, Social Security Regulation 2; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-02 renumbered as Section R2-8-102 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A), (B), and (D), amended effective April 12, 1984 (Supp. 84-2). Correction, subsection (B), as amended effective April 12, 1984 (Supp. 84-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-103. Repealed****Historical Note**

Former Rule, Social Security Regulation 3; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-03 renumbered as Section R2-8-103 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A) thru (C), amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-104. Definitions**

- A. The definitions in A.R.S. § 38-711 apply to this Chapter.
- B. Unless otherwise specified, in this Chapter:
1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
  2. "Assumed actuarial investment earnings rate" means the assumed rate of investment return approved by the Board and contained in R2-8-118(A).
  3. "Authorized employer representative" means an individual specified by the Employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
  4. "Contribution" means:
    - a. Amounts required by A.R.S. Title 38, Chapter 5, Articles 2 and 2.1 to be paid to the ASRS by a member or an employer on behalf of a member;
    - b. Any voluntary amounts paid to the ASRS pursuant to 2 A.A.C. 8, Article 5 by a member to be placed in the member's account; and
    - c. Amounts credited by transfer under 2 A.A.C. 8, Article 11.
  5. "Day" means a calendar day, and excludes the:
    - a. Day of the act or event from which a designated period of time begins to run; and

- b. Last day of the period if a Saturday, Sunday, or official state holiday.
6. "Designated beneficiary" means the same as in A.R.S. § 38-762(G) or another person designated as a beneficiary by law.
7. "Director" means the Director appointed by the Board as provided in A.R.S. § 38-715.
8. "Individual retirement account" or "IRA" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
9. "Party" means the same as in A.R.S. § 41-1001(14).
10. "Person" means the same as in A.R.S. § 41-1001(15).
11. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-712(B), and as administered by the ASRS.
12. "Retirement account" means the same as in A.R.S. § 38-771(J)(2).
13. "Rollover" means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
14. "Terminate employment" means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
15. "United States" means the same as in A.R.S. § 1-215(39).

**Historical Note**

Former Rule, Social Security Regulation 4; Former Section R2-8-04 renumbered as Section R2-8-104 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (G), (J), and (K) effective April 12, 1984 (Supp. 84-2). Typographical error corrected in subsection (5)(c) "required" corrected to "required" (Supp. 97-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-105. Repealed****Historical Note**

Former Rule, Social Security Regulation 5; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-05 renumbered as Section R2-8-105 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

**R2-8-106. Reserved****R2-8-107. Reserved****R2-8-108. Reserved****R2-8-109. Reserved****R2-8-110. Reserved****R2-8-111. Reserved****R2-8-112. Reserved****R2-8-113. Emergency Expired**

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

**Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

**R2-8-114. Emergency Expired****Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

**R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death**

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

1. "DRO" means the same as "domestic relations order" in A.R.S. § 38-773(H)(1).
2. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
3. "Employer Number" means a unique identifier the ASRS assigns to a member employer.
4. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
5. "LTD" Means the same as in R2-8-301.
6. "On File" means ASRS has received the information.
7. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
8. "Warrant" means a voucher authorizing payment of funds due to a member.

B. A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents necessary to apply for the withdrawal of the member's contributions.

C. Upon request to withdraw by the member, the ASRS shall provide:

1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer, if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS.

D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:

1. The member's full name;
2. The member's Social Security number or U.S. Tax Identification number;
3. The member's current mailing address, if not On File with ASRS;
4. The member's birth date, if not On File with ASRS;
5. Notarized signature of the member certifying that the member:
  - a. Is no longer employed by any Employer;
  - b. Is neither under contract nor has any verbal or written agreement for future employment with an Employer;
  - c. Is not currently in a leave of absence status with an Employer;

- d. Understands that each of the member's former Employers will complete an ending payroll verification form if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS;
  - e. Understands that the member's most recent Employer will complete an ending payroll verification form for the member if the member has reached the member's required beginning date pursuant to A.R.S. § 38-775;
  - f. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application and the member elects to waive the member's 30-day waiting period to consider a roll over or a cash distribution;
  - g. Understands that the member is forfeiting all future retirement rights and privileges of membership with ASRS;
  - h. Understands that LTD benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
  - i. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;
  - j. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and
  - k. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for roll over will be paid directly to the member and any taxable amounts will be subject to applicable state and federal tax withholding;
  - l. Understands that the member is not considered terminated and cannot withdraw the member's ASRS contribution if the member was called to active military service and is not currently performing services for an Employer;
  - m. Understands that any person who knowingly makes any false statement with an intent to defraud the ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793.
6. Specify that:
- a. The entire amount of the distribution be paid directly to the member,
  - b. The entire amount of the distribution be rolled over to an eligible retirement plan, or
  - c. An identified amount of the distribution be rolled over to an eligible retirement plan and the remaining amount be paid directly to the member; and
7. If the member selects all or a portion of the withdrawal be rolled over to an eligible retirement plan, specify:
- a. The type of eligible retirement plan; and
  - b. The name and mailing address of the eligible retirement plan.
- E. If ASRS has received contributions for the member within six months immediately preceding the date the member submitted

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

the request to ASRS each Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:

1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The member's termination date;
  4. The member's final pay period ending date;
  5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
  6. The Employer's name and telephone number;
  7. The Employer Number;
  8. The name and title of the authorized Employer representative;
  9. Certification by the authorized Employer representative that:
    - a. The member Terminated Employment and is neither under contract nor bound by any verbal or written agreement for employment with the Employer;
    - b. There is no agreement to re-employ the member;
    - c. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
    - d. The authorized Employer representative certifies that they are the Employer user named on the Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form and their title and contact information is current and correct.
- F.** If the member has attained a required beginning distribution date as of the date the member submitted the request to ASRS, the most recent Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the information contained in subsection (E).
- G.** If the member requests a return of contributions and a Warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H.** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the Warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I.** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless a present or former spouse submits to the ASRS a certified copy or original DRO that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- J.** A member may cancel an Application for Withdrawal of Contributions and Termination of Membership form at any time

before the return of contributions is disbursed by submitting written notice to ASRS to cancel the request.

- K.** If an Application for Withdrawal of Contributions and Termination of Membership form is completed through the member's secure ASRS account, the secure login and successful submission of the knowledge based answers shall serve as the member's notarized signature required under subsection (D)(5).

**Historical Note**

Former Rule, Social Security Regulation 1; Amended effective Dec. 20, 1979 (Supp. 79-6). Former Section R2-8-15 renumbered as Section R2-8-115 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 644, effective February 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-116. Alternate Contribution Rate**

- A.** For purposes of this Section, the following definitions apply:
1. "ACR" means an alternate contribution rate pursuant to A.R.S. § 38-766.02, the resulting amount of which is not deducted from the employee's compensation.
  2. "Class of positions" means all employment positions of the employer that perform the same, or substantially similar, function or duties, for the employer as determined by the ASRS in subsection (B).
  3. "Compensation" has the same meaning as A.R.S. § 38-711(7) and does not include ACR amounts.
  4. "Leased from a third party" means:
    - a. The employee is not employed by an employer; and
    - b. A co-employment relationship, as defined in A.R.S. § 23-561(4), does not exist.
- B.** An employer that employs a retired member shall pay an ACR to the ASRS, unless the employer provides proof that:
1. The retired member is leased from a third party; and
  2. All employees in the entire class of positions, to which the retired member's position belongs, have been leased from a third party; and
  3. No employee who has not been leased is performing the same, or substantially similar, function or duties, as the retired member.
- C.** In order to determine whether an employer satisfies the criteria in subsection (B), the employer shall submit information and documentation, pursuant to A.R.S. § 38-766.02(E), within 14 days of written request by the ASRS.
- D.** The employer shall directly remit payment of an ACR to the ASRS from the employer's funds, through the employer's secure ASRS account within 14 days of the first pay period end date after the hire of the retired member.
- E.** If the employer does not remit the ACR by the date it is due pursuant to subsection (D), the ASRS shall charge interest on the ACR amount from the date it was due to the date the ACR payment is remitted to the ASRS at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- F.** A payment of an ACR on behalf of a retired member pursuant to A.R.S. § 38-766.02, shall not entitle a retired member to a refund of an ACR payment or any additional ASRS benefit as described in A.R.S. § 38-766.01(E).

**Historical Note**

Former Rule, Retirement System Regulation 2; Former Section R2-8-16 renumbered as Section R2-8-116 with-

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

out change effective May 21, 1982 (Supp. 82-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 22 A.A.R. 1341, effective July 4, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

**R2-8-117. Return to Work After Retirement**

- A. Unless otherwise specified, in this Section:
  - 1. "Commencing employment" means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders services directly to an Employer for which the retired member is entitled to be paid.
  - 2. "Returns to work" means the member retired from the ASRS prior to Commencing Employment with an Employer.
- B. Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member's current Employers through the retired member's secure website account within 30 days of the retired member Commencing Employment with an Employer.
- C. Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member's employment information and submit the verified Working After Retirement form to the ASRS through the Employer's secure website account for each retired member who returns to work with the Employer.
- D. After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS through the Employer's secure website account within 30 days of a change in the actual hours or intent of each retired member's employment that results in:
  - 1. The member's number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
  - 2. The member's number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.
- E. The Working After Retirement form shall contain the following information:
  - 1. The retired member's Social Security number or U.S. Tax Identification number;
  - 2. The retired member's full name;
  - 3. The date the member retired;
  - 4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
  - 5. The first date of Commencing Employment upon the retired member's return to work;
  - 6. The intent of the retired member's employment reflected as:
    - a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
    - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
  - 7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to submit the Working After Retirement form to the Employer and submit any additional Working After Retirement forms to the Employer as required.

- F. Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- G. By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.
- H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- I. If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.

**Historical Note**

Former Rule, Retirement System Regulation 3; Former Section R2-8-17 renumbered as Section R2-8-117 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). New Section made by final rulemaking at 23 A.A.R. 209, effective March 5, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-118. Application of Interest Rates**

- A. Application of interest from inception of the ASRS Plan through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Investment Earnings Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death
7-1-1953	2.50%	2.50%
7-1-1959	3.00%	3.00%
7-1-1966	3.75%	3.75%
7-1-1969	4.25%	4.25%
7-1-1971	4.75%	4.75%
7-1-1975	5.50%	5.50%
7-1-1976	6.00%	5.50%
7-1-1981	7.00%	5.50%
7-1-1982	7.00%	7.00%
7-1-1984	8.00%	8.00%
7-1-2005	8.00%	4.00%
7-1-2013	8.00%	2.00%
7-1-2018	7.50%	2.00%

- B. At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The balance on which interest is credited includes:
  - 1. Employer and employee contributions;
  - 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

3. Amounts credited by transfer under 2 A.A.C. 8, Article 11; and
  4. Interest credited in previous years.
- C. Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the member's retirement date.

**Historical Note**

Former Rule, Retirement System Regulation 4; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-18 renumbered and amended as Section R2-8-118 effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-119. Expired****Historical Note**

Former Rule, Retirement System Regulation 5; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-19 renumbered and amended as Section R2-8-119 effective May 21, 1982 (Supp. 82-3). Section R2-8-119 and Appendix A and B expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**R2-8-120. Repealed****Historical Note**

Former Rule, Social Security Regulation 6; Amended effective June 19, 1975 (Supp. 75-1). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-20 renumbered and amended as Section R2-8-120 effective May 21, 1982 (Supp. 82-3). Repealed effective July 24, 1985 (Supp. 85-4). New Section made by final rulemaking at 20 A.A.R. 2236, effective October 4, 2014 (Supp. 14-3). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Repealed by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-121. Employer Payments for Ineligible Contributions; Unfunded Liability Invoice**

- A. Upon calculating an unfunded liability amount under A.R.S. § 38-748, the ASRS shall send an Unfunded Liability Invoice to the Employer through the Employer's secure ASRS account.
- B. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-748, shall remit full payment of the unfunded liability amount within 90 days of being notified of the unfunded liability pursuant to subsection (A).
- C. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount within 90 days of being notified of the unfunded liability amount, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- D. The ASRS may collect any unfunded liability and interest amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

**Historical Note**

Former Rule, Retirement System Regulation 7; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-21 renumbered as Section R2-8-121 without change effective May 21, 1982 (Supp. 82-3). Amended subsection (A) effective May 30, 1985 (Supp. 85-3). Section repealed by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (05-1). New Section made by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

**R2-8-122. Remittance of Contributions**

- A. Each Employer shall remit the amount of employee member contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- B. Each Employer shall remit the amount of employer contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- C. Each Employer shall remit contributions pursuant to this Section based on the contribution rate in effect on the pay period end date.
- D. Each Employer shall certify on each payroll that each employee included on that payroll has met the requirements for active member eligibility and that all contributions to be remitted are for eligible compensation under A.R.S. § 38-711.
- E. If an Employer improperly certifies that an employee has met the requirements for active member eligibility and that all contributions remitted for the employee are eligible for compensation under subsection (D), the ASRS may charge the employer an unfunded liability amount under A.R.S. § 38-748.

**Historical Note**

Former Rule, Retirement System Regulation 8; Amended effective Dec. 8, 1978 (Supp. 78-6). Former Section R2-8-22 renumbered as Section R2-8-122 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 371, effective April 11, 2020 (Supp. 20-1). Section amended by final rulemaking at 27 A.A.R. 458, effective May 2, 2021 (Supp. 21-1).

**R2-8-123. Actuarial Assumptions and Actuarial Value of Assets**

- A. For the purposes of this Section, "market value" means an estimated monetary worth of an asset based on the current demand for the asset and the amount of that type of asset available for sale.
- B. The Board adopts the following actuarial assumptions and asset valuation method:
  1. The interest and investment return rate assumptions are determined by the Board.
  2. The actuarial value of assets equals the market value of assets:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. Minus a 10-year phase-in of the excess for years in which actual investment return exceeds expected investment return; and
- b. Plus a 10-year phase-in of the shortfall for years in which actual investment return falls short of expected investment return.

**Historical Note**

Adopted effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Amended effective December 20, 1977 (Supp. 77-6). Former Section R2-8-23 renumbered and amended as Section R2-8-123 effective May 21, 1982 (Supp. 82-3). Emergency amendments effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent amendments adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1006, effective February 24, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking renewed at 9 A.A.R. 3963, effective August 21, 2003 for a period of 180 days (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 20 A.A.R. 3043, effective January 3, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

**Table 1. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 1 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 2. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amend-

ments to Table 2 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 3. Repealed****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 3 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Table 3 repealed; new Table 3 renumbered from Table 4 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 3A. Expired****Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 3B. Expired****Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 4. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 4 renumbered as Table 3 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 4A. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 4B. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 4C. Repealed****Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Table 5. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 5 repealed, new Table 5 adopted by emergency action effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Table 5 repealed, new Table 5 adopted by regular rulemaking action effective September 12, 1997 (Supp. 97-3). Table 5 repealed; new Table 5 renumbered from Table 6 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 5 renumbered to Table 6; new Table 5 made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 6. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Former Table 6 renumbered to Table 5; new Table 6 renumbered from Table 7 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp.

03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 6 renumbered to Table 7; new Table 6 renumbered from Table 5 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**Table 7. Expired****Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Renumbered to Table 6 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table 7 renumbered from Table 6 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

**R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations**

- A. The following definitions apply to this Section unless otherwise specified:
1. "Compensation" means the same as in A.R.S. § 38-711(7).
  2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).
- B. An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and
  2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:
    - a. The member's full name;
    - b. The member's date of birth; and
    - c. The member's current Compensation;
- C. The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.
- D. If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- E. Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. The member's full name;
  2. The member's date of birth;
  3. The member's Compensation at termination;
  4. The date the member terminated employment; and
  5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.
- F. Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.
- G. If the ASRS calculates an unfunded liability of less than \$0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.
- H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.
- I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).
- Historical Note**
- Adopted as an emergency effective August 25, 1975 (Supp. 75-1). Former Section R2-8-24 renumbered as Section R2-8-124 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).
- R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations**
- A. The following definitions apply to this Section unless otherwise specified:
1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).
  2. "Baseline salary" means a member's Average Monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:
    - a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and
    - b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).
3. "Compensation" means the same as in A.R.S. § 38-711(7).
4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.
5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:
- a. A change in the employee's primary job responsibilities; and
  - b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and
  - c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.
6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.
7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this Section, each agency, board, commission, and department of the State of Arizona shall be considered a separate Employer.
8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).
- B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation for each consecutive 12 months of Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.
- C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.
- D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:
1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.
- E.** Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).
- F.** The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.
- G.** If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.
- H.** If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).
- I.** In consultation with the ASRS actuary, the ASRS shall use a determination under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.
- J.** Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).
- K.** An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- L.** Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- M.** The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).
6. "Joint and survivor retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
7. "Legal documentation" means:
- One document issued from a United States government entity; or
  - Two documents issued from one or more federal, state, local, sovereign, medical, or religious institution.
8. "LTD" means the same as in R2-8-301.
9. "Irrevocable PDA" means the same as in R2-8-501.
10. "On File" means the same as in R2-8-115.
11. "Original retirement date" means the later of:
- The date a member retires from the ASRS for the first time; or
  - The date a member re-retires from the ASRS after returning to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C).
11. "Period certain and life annuity retirement benefit option" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).
12. "Spouse" means the individual to whom a member is married under Arizona law.
13. "Straight life annuity" means the same as monthly life annuity according to A.R.S. § 38-757.
- B.** A member may retire from the ASRS by submitting a Retirement Application to the ASRS that contains the following information:
- The member's full name;
  - The member's Social Security number or U.S. Tax Identification number;
  - The member's marital status, if not On File with ASRS;
  - The member's current mailing address; if not On File with ASRS;
  - The member's date of birth, if not On File with ASRS;
  - A retirement date according to A.R.S. § 38-764(A);
  - The retirement option the member is electing;
  - If the member is electing to roll over a lump sum distribution amount to another retirement account, then:
    - The type of account and account number, if applicable, to which the member is electing to roll over the lump sum distribution; and
    - The name and address of the financial institution of the account to which the member is electing to roll over the lump sum distribution;
  - The following information for each primary beneficiary, unless the member is receiving a mandatory lump sum distribution under subsection (M):
    - The beneficiary's full name;
    - The beneficiary's Social Security number, if the beneficiary is a U.S. citizen;
    - The beneficiary's date of birth;
    - The beneficiary's relationship to the member; and
    - The percent of benefit the beneficiary may receive upon death of the member, if the member is designating more than one beneficiary.
  - Whether the member is electing the Optional Health Insurance Premium Benefit;
  - The following spousal consent information, if the member is married and is electing a retirement option other than a Joint and Survivor Retirement Benefit Option with at least 50% of the retirement benefit designated to the member's spouse:
    - Whether the member's spouse consents to the member making a beneficiary election that provides the

**Historical Note**

Adopted as an emergency effective July 30, 1975 (Supp. 75-1). Former Section R2-8-25 renumbered as Section R2-8-125 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

**R2-8-126. Retirement Application**

- A.** For the purposes of this Section, the following definitions apply, unless stated otherwise:
- "Acceptable documentation" means any written request containing all the accurate, required information, dates, and signatures necessary to process the request.
  - "Acceptable form" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
  - "Applicable retirement date" means the later of:
    - The date a member retires from the ASRS for the first time; or
    - The date a member re-retires from the ASRS after returning to active membership.
  - "Conservator" means the same as in A.R.S. § 14-7651.
  - "DRO" means the same as in R2-8-115.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- member's spouse with less than 50% of the member's account balance;
- b. Whether the member's spouse consents to the member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
  - c. The member's spouse's full name; and
  - d. The member's spouse's notarized signature;
12. Whether the member is electing to receive a partial lump sum distribution according to A.R.S. § 38-760 and if so:
    - a. How many months of annuity, up to 36 months, the member is electing to receive as a partial lump sum;
    - b. Whether the member is electing to directly receive the partial lump sum distribution reduced by applicable tax withholding amounts;
    - c. Whether the member is electing to roll over all or a portion of the partial lump sum distribution amount to one other retirement account; and
    - d. Whether the member is electing to use the partial lump sum distribution to purchase service credit with ASRS based on a service purchase request dated before January 6, 2013;
  13. Acknowledgement of the following statements of understanding:
    - a. The member is aware of the member's LTD stop-payment date and any disability benefits the member is receiving shall cease upon the retirement date the member elects according to subsection (B)(6);
    - b. The member understands that if an overpayment exists, ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with ASRS LTD claims administrator shall cease;
    - c. The member understands that if the member is submitting written notice of a changed retirement date, benefit option, or partial lump sum increment selection, ASRS shall distribute the member's benefit as of the later of:
      - i. The date ASRS receives the most recent Acceptable Documentation; or
      - ii. The retirement date contained in the most recent Acceptable Documentation.
    - d. The member has received the Special Tax Notice Regarding Plan Payments;
    - e. The member has received the Return to Work information and will comply with the laws and rules governing the member's return to work;
    - f. The member authorizes ASRS and the banking institution identified in subsection (W) to debit the member's account for the purposes of correcting errors and returning any payments inadvertently made after the member's death;
    - g. The member understands that the member may have a one-time option to rescind a Joint and Survivor Retirement Benefit Option or a Period Certain and Life Annuity Retirement Benefit Option according to R2-8-130;
    - h. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
    - i. The member acknowledges that the member has complied with A.R.S. §§ 38-755 and 38-776 regarding spousal consent; and
  14. The member's notarized signature.
- E. If a Retirement Application is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(14).
  - D. If the retirement date the member elects according to subsection (B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.
  - E. A member who elects to roll over all or a portion of the partial lump sum distribution amount according to subsection (B)(12)(c), shall submit the following written information to the ASRS:
    1. The type of account and account number to which the member is electing to roll over;
    2. The name and address of the financial institution of the account to which the member is electing to roll over; and
    3. If the member is electing to roll over a portion of the partial lump sum distribution, then the amount the member is electing to roll over.
  - F. If the member elects to roll over all or a portion of their lump sum or partial lump sum distribution, the ASRS shall only roll over the distribution to one retirement account.
  - G. Any portion of the partial lump sum distribution that is not rolled over to another retirement account according to subsection (B) shall be distributed directly to the member.
  - H. If the member elects to use the partial lump sum distribution to purchase service credit according to subsection (B)(12)(d) the member shall submit the following written information to the ASRS:
    1. The number of the service purchase invoice;
    2. Whether the member is electing to apply the partial lump sum distribution to all eligible service on that invoice;
    3. If the member is not electing to apply the partial lump sum distribution to all eligible service on that invoice, then:
      - a. The amount of the partial lump sum distribution to be applied to that invoice; or
      - b. The number of years on that invoice the member is electing to purchase with the partial lump sum distribution;
    4. If the member is electing to make a payment on that service purchase invoice with after-tax payments, a rollover, or termination pay according to A.R.S. § 38-747;
    5. Whether the member is electing to authorize the ASRS to increase the number of months of annuity, not to exceed 36 months, to purchase the eligible service on that service purchase invoice, if the member elected an insufficient number of months of annuity to receive as a partial lump sum according to subsection (G) to complete the service purchase invoice;
    6. If the member does not have eligible service to purchase on that invoice, whether the member is electing to cancel the member's election to receive a partial lump sum distribution.
  - I. A member who elects to receive a partial lump sum distribution shall receive an actuarially reduced annuity retirement benefit according to A.R.S. § 38-760.
  - J. ASRS shall disburse any partial lump sum amount that is not applied to a service purchase invoice according to subsection (G) directly to the member after withholding applicable taxes.
  - K. After submitting a Retirement Application according to subsection (B), a member may make changes to the member's Retirement Application by submitting written notice to the ASRS of the specific changes according to A.R.S. § 38-764(H).
  - L. If ASRS has received contributions for the member within the three years immediately preceding the member's retirement

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

date, the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer. If ASRS has received contributions for the member within the six months immediately preceding the member's retirement date and the member shall receive a one-time lump sum payment according to subsection (P), the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer.

- M.** If the member has reached the age for minimum required distribution according to A.R.S. § 38-775(H)(4), the ASRS shall send a New Retirement Ending Payroll Verification form to the member's most recent Employer.
- N.** The Employer shall submit the completed New Retirement Ending Payroll Verification form to ASRS with the following information:
1. The member's Termination date or last day of ASRS membership with that Employer, if applicable;
  2. The member's total salary paid during their last fiscal year;
  3. The member's compensation for the last pay period;
  4. The name and title of the authorized Employer representative;
  5. Certification by the authorized Employer representative that:
    - a. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
    - b. The authorized Employer representative certifies that they are the Employer user named on the New Retirement Ending Payroll Verification form and their title and contact information is current and correct.
- O.** The ASRS shall cancel a member's Retirement Application if ASRS does not receive all forms and information required under this Section within six months immediately after the member's retirement date.
- P.** As authorized under A.R.S. § 38-764(F), if a member's Straight Life Annuity, after any applicable early retirement reduction factor, is less than a monthly amount of \$100, the ASRS shall not pay the annuity. Instead, the ASRS shall make a one-time mandatory lump sum payment in the amount determined by using appropriate actuarial assumptions.
- Q.** For purposes of calculating a member's retirement benefit according to A.R.S. §§ 38-758 and 38-759, ASRS shall calculate age to the nearest day as of the member's retirement date.
- R.** Based on the retirement option the member elects according to A.R.S. § 38-760, the ASRS shall calculate a member's actuarially reduced benefits, based on the attained age of the member, and if necessary, the attained age of the contingent annuitant as of the date of the member's retirement as follows:
1. For a partial lump sum retirement benefit option, ASRS shall calculate age to the nearest day as of the member's retirement date;
  2. For a Joint and Survivor Retirement Benefit Option, ASRS shall calculate age to the nearest day as of the member's retirement date; and
  3. For a mandatory lump sum payment according to subsection (O) or a Period Certain and Life Annuity Retirement Benefit Option, ASRS shall calculate age to the nearest full month in addition to calculating age according to subsection (P) as necessary.
- S.** If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- T.** If a member does not retire by the date minimum distribution payments are required according to A.R.S. §§ 38-759 and 38-775, the required minimum distribution payments will accrue interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) and in effect on the date the required minimum distribution payments should have begun.
- U.** The ASRS shall distribute any required minimum distribution payments with interest according to subsection (T) with the member's first finalized benefits payment.
- V.** If a member submits a retirement application after the member's minimum required distribution date, the ASRS shall determine that the member's Applicable Retirement Date is the date the required minimum distribution payments should have begun.
- W.** Notwithstanding any other Section, an inactive member who does not have contributions related to compensation is not eligible for retirement.
- X.** The ASRS shall issue a debit benefit card, if the annuitant does not provide the following direct deposit information through the annuitant's secure ASRS account or by a notarized Direct Deposit form:
  1. The member's full name;
  2. The member's bank account routing number;
  3. The member's bank account number; and
  4. The type of the account.
- Y.** The ASRS shall disburse benefits payments according to subsection (R), only retroactive to the later date specified in A.R.S. § 38-759(B).
- Z.** ASRS shall not issue additional estimate checks to a member whose retirement is canceled.

**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-26 renumbered and amended as Section R2-8-126 effective May 21, 1982 (Supp. 82-3). Amended subsections (A) through (D) effective October 18, 1984 (Supp. 84-5). Amended subsections (A) through (D) effective July 24, 1985 (Supp. 85-4). Amended by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 19 A.A.R. 332, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 22 A.A.R. 3081, effective December 3, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-127. Re-Retirement Application**

- A.** The definitions in R2-8-126 apply to this Section.
- B.** If a member has previously retired from ASRS, the member may re-retire from ASRS by submitting a Re-Retirement Application to the ASRS that contains:
  1. The information identified in R2-8-126(B)(1) through (B)(8);

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The retirement option the member is electing, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  3. The information identified in R2-8-126(B)(11);
  4. Whether the member is electing the Optional Health Insurance Premium Benefit, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  5. The information identified in R2-8-126(B)(13), if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
  6. Acknowledgement of the following statements of understanding:
    - a. The member's signature confirms the member's intent to re-retire and applies to all the sections included in the Re-Retirement Application.
    - b. The member understands that as a re-retiree, the member must keep the same retirement option and beneficiary the member elected when the member previously retired from ASRS, unless the member returned to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C);
    - c. The member may change the member's beneficiary after re-retiring and changing the beneficiary may change the member's monthly annuity;
    - d. The member has complied with A.R.S. §§ 38-755 and 38-766 regarding spousal consent;
    - e. The member certifies that the member has read and understands the instructions and Special Tax Notice Regarding Plan Payments;
    - f. The member authorizes ASRS and the banking institution the member listed for direct deposit to debit the member's account for the purpose of correcting errors and returning any payments inadvertently paid after the member's death;
    - g. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
    - h. The member understands that if an overpayment exists, the ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with the ASRS LTD claims administrator shall cease.
  7. The member's notarized signature.
- C. If the retirement date the member elects according to R2-8-126(B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-128. Joint and Survivor Retirement Benefit Options**

- A. The definitions in R2-8-126 apply to this Section.
- B. A member who is ten years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 100% Joint and Survivor Retirement Benefit Option.
- C. A member who is 24 years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible

to elect a 66 2/3% Joint and Survivor Retirement Benefit Option.

- D. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (B), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% Joint and Survivor Retirement Benefit Option, if:
  1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  2. The member submits an original or certified copy of a DRO to ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- E. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (C), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% Joint and Survivor Retirement Benefit Option, if:
  1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
  2. The member submits an original or certified copy of a DRO to the ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.
- F. Notwithstanding any other Section, for purposes of determining whether a member is eligible to participate in a Joint and Survivor Retirement Benefit Option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant. For purposes of this Section, a contingent annuitant must be a living person.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-129. Period Certain and Life Annuity Retirement Options**

- A. The definitions in R2-8-126 apply to this Section.
- B. An individual who is 104 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option.
- C. An individual who is 93 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with ten years certain or 15 years certain.
- D. An individual who is 85 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with 15 years certain.
- E. The ASRS shall calculate the period certain term as beginning on the first day of the first full calendar month following the member's Applicable Retirement Date.
- F. Notwithstanding subsection (E), the ASRS shall calculate the period certain term as beginning on the member's Applicable Retirement Date if the member's Applicable Retirement Date is the first day of the month.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant**

- A. The definitions in R2-8-126 apply to this Section.
- B. According to A.R.S. § 38-760(B)(2), for a member whose Original Retirement Date is after August 9, 2001, upon the expiration of a member's period certain term the ASRS shall rescind the member's election and the ASRS shall provide the member a Straight Life Annuity retirement benefit subject to

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- any retirement reductions applicable at the member's Original Retirement Date.
- C.** According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is after August 9, 2001 and before July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term.
- D.** According to A.R.S. § 38-760(B)(1), a member whose Original Retirement Date is before July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the member's death.
- E.** A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term if the member provides proof to ASRS of the death of the primary beneficiary or an original or certified copy of a DRO showing that the primary beneficiary has ceased to be a primary beneficiary.
- F.** A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the death of the member if the member provides proof to ASRS of the death of the contingent annuitant or an original or certified copy of a DRO showing that the contingent annuitant has ceased to be a contingent annuitant.
- G.** A member who elected to rescind a Period Certain and Life Annuity Retirement Benefit Option according to subsection (C) may elect to revert to the Period Certain and Life Annuity Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- H.** A member who elected to rescind a Joint and Survivor Retirement Benefit Option according to subsection (D) may elect to revert to the Joint and Survivor Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- I.** A member may only revert to the same Period Certain and Life Annuity Retirement Benefit Option the member rescinded according to subsection (C) prior to the expiration of the period certain term the member elected at the member's most recent retirement.
- J.** A member who rescinds their election according to subsections (E) or (F) is not eligible to revert to a Period Certain and Life Annuity Retirement Benefit Option or a Joint and Survivor Retirement Benefit Option.
- K.** Notwithstanding any other provision, the time period of a Period Certain and Life Annuity Retirement Benefit Option shall be continuous from the member's retirement date until the term expires regardless of whether the member rescinds or reverts to another retirement option.
- L.** A member who wants to rescind or revert a retirement election according to subsections (C) through (H) shall ensure ASRS receives an Application to Rescind, Revert or Change Contingent Annuitant at least one day prior to the member's death.
- M.** In order to rescind, revert, or change a contingent annuitant, the member shall submit an Application to Rescind, Revert or Change Contingent Annuitant with the following information:
1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The member's marital status, if not On File with ASRS;
4. Whether the member is electing to rescind, revert, or change a contingent annuitant;
  5. The member's notarized signature acknowledging the following statements of understanding:
    - a. For rescinding a retirement election:
      - i. By this action, and the member's signature, the member is aware that the member's designated beneficiary or contingent annuitant will not continue with monthly benefits after the member's death;
      - ii. The member is aware that a certified copy of the member's designated beneficiary's or contingent annuitant's death certificate or an original or certified copy of a DRO is required if the member retired or re-retired on or after July 1, 2008;
      - iii. At the time of the member's death, if the ASRS has not disbursed the total employee contributions on the member's account, plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, the balance will be payable in a lump sum to the beneficiary named on the member's most recent Acceptable Form.
    - b. For changing a contingent annuitant or beneficiary:
      - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named on the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
      - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of the contingent annuitant's Legal Documentation is required and the member's benefit will be recalculated based on the member's age and the age of the member's new contingent annuitant as of the effective date of the member's request according to this Section;
      - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
      - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
    - c. For reverting to a previously elected retirement benefit option according to A.R.S. § 38-760:
      - i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
      - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of Legal Documentation showing the contingent annuitant's date of birth is required and the member's benefit will be recalculated based on the member's age and the age of the member's

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- contingent annuitant as of the effective date of the member's request according to this Section;
- iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
  - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
6. If the member is electing to change a contingent annuitant, the following information for the new contingent annuitant:
    - a. Full name;
    - b. Social Security number, if the contingent annuitant is a U.S. citizen;
    - c. Date of birth; and
    - d. Legal relationship to the member.
  7. If the member is married, whether the member's spouse consents to the following with the spouse's notarized signature:
    - a. The member making a beneficiary designation that provides the member's spouse with less than 50% of the member's account balance;
    - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option; or
    - c. The member changing or ending the spouse's contingent annuitant status.
  8. Whether the spouse's consent is not required because:
    - a. The spouse predeceased the member and if so, provide a copy of the spouse's death certificate; or
    - b. The member is divorced and if so, provide an original or certified copy of a DRO.
- N.** If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- O.** The effective date of the member's request according to this Section is the date on which ASRS receives the Application to Rescind, Revert or Change Contingent Annuitant.
- P.** According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is on or after July 1, 2008 and who elects a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election according to subsection (E) and elect to receive a Straight Life Annuity prior to the expiration of the member's period certain term if one or more of the member's primary beneficiaries dies or ceases to be a beneficiary according to the terms of an original or certified copy of a DRO.
- Q.** The ASRS shall cancel a member's Application to Rescind, Revert, or Change Contingent Annuitant if ASRS does not receive all forms and information required under this Section within six months immediately after the ASRS receives the application.
- Historical Note**
- New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).
- R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation**
- A.** The definitions in R2-8-126 apply to this Section.
  - B.** In order to designate a beneficiary, a member shall submit an Acceptable Form containing the following information:
    1. The Member's full name and one or more of the following information:
      - a. The Member's Social Security number or U.S. Tax Identification number; or
      - b. The Member's address; or
      - c. The Member's date of birth;
    2. The following information for the beneficiary:
      - a. The full name of the person or entity the member is designating as beneficiary;
      - b. Whether the beneficiary is being designated as primary or secondary beneficiary;
      - c. The percentage of the benefit the member is allocating to the beneficiary; and
    3. The member's notarized signature.
  - C.** If a change in a designated beneficiary is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(3).
  - D.** If a member submits an Acceptable Form designating a beneficiary without indicating the percentage of the benefit the member is allocating to the beneficiary, the ASRS shall determine that each beneficiary is designated to receive an equal amount of the benefit.
  - E.** Effective July 1, 2013, a married member:
    1. Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50% of the member's retirement account unless:
      - a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
      - b. The spouse consents to an alternate beneficiary;
    2. Who retires shall choose a Joint and Survivor Retirement Benefit Option and name the member's current spouse as contingent annuitant unless:
      - a. Naming or maintaining the current spouse as contingent annuitant violates another law, existing contract, or court order; or
      - b. The spouse consents to an alternate contingent annuitant; or
      - c. The spouse consents to an alternate annuity option under A.R.S. §§ 38-757 or 38-760.
  - F.** The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (E).
  - G.** Subsection (E) does not apply to a member who is receiving a mandatory lump sum distribution according to A.R.S. § 38-764.
  - H.** Subsection (E) does not apply to a member who submits a Spousal Consent Exception form that contains the member's notarized signature to the ASRS affirming under penalty of perjury that the member's spouse's consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).
  - I.** In order to change a beneficiary designation, a member shall submit the information contained in subsection (B) and:
    1. A married member who changes a beneficiary designation on or after July 1, 2013, shall ensure the new beneficiary designation is consistent with subsection (E); or
    2. A married member who retired before July 1, 2013, and who wishes to change the contingent annuitant or beneficiary, shall ensure that the new designation is consistent with subsection (E).
  - J.** A married member who re-retires according to A.R.S. § 38-766:
    1. Within less than 60 consecutive months of active membership from the member's previous retirement date, is not eligible to elect a different annuity option or different beneficiary than the member elected at the time of the previous retirement; or

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. At least 60 consecutive months of active membership after the member's previous retirement date, may elect a different annuity option and different beneficiary than the member elected at the time of the previous retirement, and the election shall comply with subsection (E).
- K.** If a married member submits a retirement application that fails to comply with subsection (E), the member shall submit a new retirement application or written notice of new retirement elections that comply with subsection (E) within six months of the member's Original Retirement Date. The member's new Original Retirement Date is the date ASRS receives the new application or written notice unless the member elects a later date according to A.R.S. § 38-764.
- L.** If a married member made a beneficiary designation on or after July 1, 2013 that is not consistent with the requirements specified in subsection (E), the ASRS shall, at the time of the member's death:
1. Notify both the spouse and designated beneficiary and:
    - a. Provide the spouse with an opportunity to waive the right under subsection (E); and
    - b. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (E); and
  2. Designate 50% of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond to notification according to subsection (L)(1) within 30 days after notification.
- M.** If a married member designated a beneficiary before July 1, 2013 that does not comply with subsection (E), upon the death of the member, the member's spouse may submit written notice to the ASRS prior to disbursement of the member's account with the following information:
1. The member's full name;
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The spouse's assertion to the spouse's right to community property;
  4. An original or copy of the marriage certificate; and
  5. An original or certified copy of the member's death certificate.
- N.** If a spouse submits written notice according to subsection (M), the ASRS shall designate the spouse as beneficiary of a percentage of the member's account according to A.R.S. §§25-211 and 25-214 and notify the member's designated beneficiary of the spouse's assertion.
- O.** The ASRS shall determine a spouse's percentage of the member's account according to subsection (L) based on the amount of service credit the member acquired during the marriage divided by the total amount of service credit the member acquired, multiplied by 50%.
- P.** If a beneficiary is notified of a spouse's assertion according to subsection (N), then before ASRS disburses a survivor benefit, the beneficiary may notify ASRS of the beneficiary's intent to appeal the spouse's right to a survivor benefit.
- Q.** Within 30 days, a beneficiary who has notified ASRS of the beneficiary's intent to appeal a survivor benefit disbursement according to subsection (P), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- R.** An original or certified copy of a DRO may supersede the requirements in subsection (B).
- S.** To consent to an alternative retirement benefit option or beneficiary designation, a member's spouse shall complete and have notarized a Spousal Consent form containing the following information:
1. Member's full name;
  2. Member's Social Security number or U.S. Tax Identification number;
  3. Whether the member's spouse is consenting to one or more of the following:
    - a. The member making a beneficiary designation that provides the spouse with less than 50% of the member's account balance;
    - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
    - c. The member naming a contingent annuitant other than the spouse; and
    - d. The spouse's notarized signature.
- T.** A member's spouse may revoke the spouse's consent to an alternative retirement benefit option or beneficiary designation by sending written notice to ASRS with the following information:
1. The member's full name
  2. The member's Social Security number or U.S. Tax Identification number;
  3. The spouse's full name;
  4. The spouse's dated signature indicating the spouse is revoking all previous Spousal Consent forms.
- U.** A spouse who is revoking a Spousal Consent form shall ensure the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-132. Survivor Benefit Options**

- A.** The definitions in R2-8-126 apply to this Section.
- B.** If the beneficiary is eligible to elect the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits based on the attained age of the beneficiary, calculated to the nearest full month, as of the date of the member's death.
- C.** If the beneficiary elects to receive the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits effective date as of the day after the member's death and the ASRS shall pay interest up to the benefits effective date.
- D.** According to A.R.S. § 38-763, if the member elected a Period Certain and Life Annuity Retirement Benefit Option and deceases prior to the expiration of the period certain term, the member's beneficiary may elect to complete the remaining period certain term or the beneficiary may elect to receive a lump sum distribution which is the greater of:
1. The present value of the benefits based on the remaining period certain term; or
  2. The member's ASRS account balance plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member.
- E.** Notwithstanding subsection (D), a beneficiary is not eligible to elect to complete the remaining period certain term if the period certain term has expired.
- F.** If the beneficiary elects to complete the remaining period certain term or elects to receive a lump sum that is the present value of the benefits based on the remaining period certain term according to subsection (D), the ASRS shall not pay interest.
- G.** If a member's beneficiary or contingent annuitant does not want to receive a survivor benefit according to 26 U.S.C. § 2518, within nine months after the member's death, the benefi-

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ciary or contingent annuitant may submit a written request to the ASRS with the following information for the beneficiary or contingent annuitant:

1. Full name;
  2. Social Security number if the beneficiary or contingent annuitant is a U.S. citizen;
  3. Address; and
  4. Notarized signature acknowledging the following statements:
    - a. The beneficiary or contingent annuitant is aware that, as a beneficiary or contingent annuitant of the member, the beneficiary or contingent annuitant is entitled to a survivor benefit in the amount specified by the ASRS;
    - b. The beneficiary is renouncing a portion or all of the beneficiary's rights to the member's benefit;
    - c. The contingent annuitant is renouncing all of the contingent annuitant's rights to the member's benefit;
    - d. The beneficiary understands that by renouncing rights to the member's benefit, the portion that the beneficiary is renouncing will be paid to any other survivor on the member's account, or if there is no other designated survivor, the benefit will be paid to the member's estate; and
    - e. The contingent annuitant understands that by renouncing rights to the member's benefit, the ASRS shall pay the member's ASRS account balance plus interest at the Assumed Actuarial Interest and Investment Return Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member, to any other survivor on the member's account, or if there is no other designated survivor, to the member's estate.
- H. According to 26 U.S.C. § 2518, a minor beneficiary's or contingent annuitant's survivor benefit cannot be renounced.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**R2-8-133. Survivor Benefit Applications**

- A. The definitions in R2-8-126 apply to this Section.
- B. The ASRS shall not distribute a survivor benefit until a claimant notifies the ASRS of a member's death by telephone or submission of a death certificate, unless the member elected a Joint and Survivor Benefit Option upon retirement.
- C. Upon notification of the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, Acceptable Form that is On File with the ASRS that was received at least one day prior to the date of the member's death, unless otherwise provided by law.
- D. The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall provide the following:
  1. An original certified death certificate or a certified copy of a court order that establishes the member's death;
  2. If the claimant is not a designated beneficiary, but is a person specified in A.R.S. § 38-762(E), a copy of a document issued from a federal, state, local, sovereign, or medical institution showing the claimant's relationship to the deceased member;
  3. A certified copy of the court order of appointment as administrator, if applicable; and
  4. Except if the deceased member was retired and elected the joint and survivor option, complete and have nota-

rized an Application for Survivor Benefits, provided by the ASRS that includes:

- a. The deceased member's full name,
- b. The deceased member's Social Security number or U.S. Tax Identification number,
- c. The benefit the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing;
- d. If the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing to roll over a benefit, the following information:
  - i. The claimant's full name;
  - ii. The name of the institution to which the claimant is electing to roll over;
  - iii. The address of the institution to which the claimant is electing to roll over;
  - iv. The full name of the authorized representative of the institution to which the claimant is electing to roll over;
  - v. The signature of the authorized representative of the institution to which the claimant is electing to roll over;
- e. If the beneficiary is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
  - i. Whether the bank account is a checking or savings account;
  - ii. The name of the banking institution to which the benefit is being sent;
  - iii. The routing number;
  - iv. The account number; and
- f. The following information for the designated beneficiary or other person specified in A.R.S. § 38-762(E):
  - i. Full name;
  - ii. Mailing address, if not On File with ASRS;
  - iii. Date of birth, if applicable; and
  - iv. Social Security number or U.S. Tax Identification number, if not On File with ASRS.
- g. The following statements of understanding:
  - i. The designated beneficiary or other person specified in A.R.S. § 38-762(E) has read and understands the Special Tax Notice Regarding Plan Payments they received with this application;
  - ii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit;
  - iii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death;
  - iv. Under penalties of perjury, the designated beneficiary or other person specified in A.R.S. § 38-762(E) certifies that:
    - (1) The Social Security number or U.S. Tax Identification number shown on this application is correct;
    - (2) They are not subject to backup withholding because:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- (a) They are exempt from backup withholding, or
  - (b) They have not been notified by the Internal Revenue Service that they are subject to backup withholding as a result of a failure to report all interest or dividends, or
  - (c) The Internal Revenue Service has notified them that they are no longer subject to backup withholding; and
  - (3) They are a legal resident of the United States, unless they are an estate or trust.
  - v. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands their right to a 30-day notice period to consider a rollover or a cash distribution and they elect to waive the notice period by their election for payment on this application;
  - vi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to another eligible retirement plan, it is their responsibility to verify that the receiving plan will accept the rollover and, if applicable, agree to separately account for the taxable and nontaxable amounts rolled over and the related subsequent earnings on such amounts;
  - vii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to an IRA plan, it is their responsibility to verify that the receiving IRA institution will accept the rollover and, if applicable, it is their responsibility to separately account for taxable and nontaxable amounts;
  - viii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to another eligible retirement plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding;
  - ix. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding.
  - xi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, they may be required to receive a minimum distribution and they certify that the date of birth shown on this form is correct.
5. For a member who elected a Joint and Survivor Retirement Benefit Option, a contingent annuitant shall submit a Joint and Survivor Certification form containing:
- a. The following information for the member:
    - i. Full name;
    - ii. Social Security number or U.S. Tax Identification number;
    - iii. Date of death; and
  - b. The following information for the beneficiary:
    - i. Legal relationship to the member;
    - ii. Full name;
    - iii. Social Security number or United States Tax Identification number, if not On File with ASRS;
    - iv. Mailing address, if not On File with ASRS;
    - v. Date of birth, if not On File with ASRS;
    - vi. If the contingent annuitant is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
      - (1) Whether the bank account is a checking or savings account;
      - (2) The name of the banking institution to which the benefit is being sent;
      - (3) The routing number;
      - (4) The account number; and
  - c. The following statements of understanding:
    - i. The contingent annuitant has read and understands the Special Tax Notice Regarding Plan Payments they received with the Joint and Survivor Certification form;
    - ii. The contingent annuitant authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit; and
    - iii. The contingent annuitant authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death.
    - d. The contingent annuitant's notarized signature.
  - E. Notwithstanding R2-8-132(H), if the beneficiary or contingent annuitant is a minor as of the date of the member's death, the beneficiary or contingent annuitant may submit a written request with the information contained in R2-8-132(G)(1) through (4) within nine months after the minor attains 18 years of age.
  - F. For a member who deceases prior to the member's retirement date, if there is no designation of beneficiary or if the designated beneficiary predeceases the member, the ASRS shall pay a survivor benefit as specified in A.R.S. § 38-762(E).
  - G. The ASRS shall begin disbursing a survivor benefit to a contingent annuitant according to A.R.S. § 38-760(B)(1) upon notification and verification of the member's death by a third party.
  - H. The ASRS shall suspend a survivor benefit for a contingent annuitant unless the contingent annuitant provides the information in subsection (D) within two months of the ASRS disbursing a survivor benefit.
  - I. If the member is domiciled in Arizona, according to A.R.S. § 14-3971, and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits an Affidavit for Collection of Personal Property to ASRS with the following:
    - 1. The claimant's name;
    - 2. The claimant's Social Security number or U.S. Tax Identification number;
    - 3. The claimant's mailing address;
    - 4. The member's name;
    - 5. The member's Social Security number or U.S. Tax Identification number;
    - 6. The date of the member's death;
    - 7. The state and county where the member died;
    - 8. Statements indicating:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. According to A.R.S. § 14-3971(B)(2)(a), no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date of the member's death;
- b. According to A.R.S. § 14-3971(B)(2)(b), the personal representative has been discharged, or more than a year has elapsed since a closing statement has been filed and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date the ASRS receives the Affidavit for Collection of Personal Property;
- c. The claimant is the successor of the member and is entitled to the member's personal property because:
- The claimant is named in the member's will; or
  - The member did not have a will and the claimant is entitled to the member's personal property by right of intestate succession according to A.R.S. § 14-2103;
- d. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(i), then a copy of the member's will;
- e. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(ii), then the relationship between the member and the claimant and whether there are other surviving heirs;
- f. If there are other surviving heirs, then the name and relationship of each surviving heir;
- g. A statement indicating the claimant is making the Affidavit for Collection of Personal Property according to A.R.S. § 14-3971 for the purpose of making a claim to the member's ASRS account; and
- h. The claimant's notarized signature.
- J.** If the member is not domiciled in Arizona and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits legal documentation to claim the member's ASRS account that complies with the statutory requirements of the state in which the member was domiciled at the time of the member's death.
- K.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is less than \$10,000 per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's legal guardian submits the following written information:
- The member's full name;
  - The member's Social Security number or U.S. Tax Identification number;
  - The minor beneficiary's full name;
  - The minor beneficiary's Social Security number or U.S. Tax Identification number;
  - The full name of the minor beneficiary's legal guardian;
  - The minor beneficiary's legal guardian's address, if not On File with ASRS; and
  - The minor beneficiary's legal guardian's signature certifying the minor beneficiary's legal guardian has care and custody of the minor beneficiary.
- L.** Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is \$10,000 or more per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's conservator submits proof of court-appointed fiduciary responsibility for the minor beneficiary.
- M.** The ASRS shall remit payment to the minor beneficiary according to subsection (K) by sending the minor beneficiary's conservator a check, if the document providing proof of the court-appointed fiduciary responsibility requires payment to be made to a restricted or secure account.
- N.** If a person claims that a beneficiary or claimant is not entitled to a survivor benefit, then before ASRS disburses a survivor benefit, the person may notify ASRS of the person's intent to appeal the beneficiary's or claimant's right to a survivor benefit.
- O.** Within 30 days, a person who has notified ASRS of the person's intent to appeal a survivor benefit disbursement according to subsection (N), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- P.** If the ASRS receives documentation from, or confirmed by, a law enforcement agency, that a beneficiary or claimant may be guilty of the felonious and intentional killing of the member, the ASRS shall not distribute any benefits to the beneficiary or claimant that may be guilty of the felonious and intentional killing of the member until the matter has been adjudicated.
- Q.** If the member's estate has an appointed personal representative, the member's estate shall submit a court document identifying the personal representative for the member's estate before ASRS may distribute a survivor benefit.
- R.** If the member's estate is closed, the person claiming a right to the member's ASRS account shall provide a court document proving the estate is closed.
- S.** If the survivor receives a monthly annuity and does not provide the direct deposit information according to subsection (D)(4)(e) or (D)(5)(b)(vi), ASRS shall issue a debit benefit card.

**Historical Note**

New Section made by final rulemaking at 26 A.A.R. 2036, effective November 8, 2020 (Supp. 20-3).

**Table 1. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 1 repealed, new Table 1 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 2. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 2 repealed, new Table 2 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 3. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 3 repealed, new Table 3 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026,

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 4. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 4 repealed, new Table 4 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 5. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 5 repealed, new Table 5 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 6. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 6 repealed, new Table 6 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 7. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 7 repealed, new Table 7 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 8. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 8 repealed, new Table 8 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 9. Repealed****Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 9 repealed, new Table 9 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026,

valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 10. Repealed****Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 10 repealed, new Table 10 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Table 11. Repealed****Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 11 repealed, new Table 11 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

**Exhibit A. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 1. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 2. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit B, Table 3. Repealed**







## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit L, Table 6. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit L, Table 7. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 1. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 2. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 3. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 4. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 5. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**Exhibit M, Table 6. Repealed****Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

**ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT****R2-8-201. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Coverage" means a medical and/or dental insurance plan a retired member, Disabled member, or beneficiary obtains through the ASRS or an Employer.
2. "Contingent annuitant" means the same as in A.R.S. § 38-711(8) and the person is eligible for Coverage.
3. "Disabled" means the member has a disability and is receiving long-term disability benefits pursuant to A.R.S. § 38-797 et seq.
4. "Family calculation" means the family Coverage premium described in A.R.S. § 38-783(B).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

5. "Joint & survivor" means the annuity option described in A.R.S. § 38-760(B)(1).
  6. "Net premium" means the amount of the Coverage premium reduced by the amount of the Premium Benefit provided by the ASRS.
  7. "On file" means the same as in R2-8-115.
  8. "Original retirement date" means the same as in R2-8-126.
  9. "Optional premium benefit" means the election, upon retirement, to have the Premium Benefit paid on behalf of the member's Contingent Annuitant upon death of the member pursuant to A.R.S. § 38-783.
  10. "Period-certain" means the annuity option described in A.R.S. § 38-760(B)(2).
  11. "Premium benefit" means the amount the ASRS provides on behalf of a retired member or Disabled member in order to offset the Coverage premium of the retired or Disabled member pursuant to A.R.S. § 38-783.
  12. "Single calculation" means the single Coverage premium calculation described in A.R.S. § 38-783(A).
  13. "Subsidized" means the same as in A.R.S. § 38-783(M)(4).
- retired members or Disabled members, is eligible for the greater of:
- a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
  - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
- B. Pursuant to A.R.S. § 38-783(E), a retired member who returns to work with an Employer and elects to maintain Coverage is eligible to receive a Premium Benefit if the member has an Original Retirement Date prior to August 2, 2012.
  - C. Pursuant to A.R.S. § 38-783(E), a Disabled member who elects to maintain Coverage is eligible to receive a Premium Benefit if the Disabled member became Disabled prior to August 2, 2012.
  - D. A member who receives a lump sum distribution from the ASRS upon retirement is eligible to receive a Premium Benefit pursuant to this Article.
  - E. Notwithstanding any other Section, a retired member who has an Original Retirement Date on or after August 2, 2012, or a Disabled member who became Disabled on or after August 2, 2012 is eligible to receive a Premium Benefit pursuant to this Article, only if Coverage is not Subsidized.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-202. Premium Benefit Eligibility and Benefit Determination**

- A. A retired member or Disabled member who has five or more years of service and who elects to maintain Coverage is eligible for a Premium Benefit as follows:
  1. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member only, is eligible for a Single Calculation of the Premium Benefit as described in R2-8-204(A);
  2. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is not a retired member or Disabled member is eligible for a Family Calculation of the Premium Benefit as described in R2-8-204(B).
  3. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is a retired member or Disabled member is eligible for the greater of:
    - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
    - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
  4. A retired member or Disabled member who is enrolled as a dependent on a member's insurance plan is eligible for a Single Calculation of the Premium Benefit described in R2-8-204(A) if:
    - a. The retired member has an Original Retirement Date prior to August 2, 2012; or
    - b. The Disabled member became Disabled prior to August 2, 2012;
  5. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and multiple dependents, some of whom are

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-203. Payment of Premium Benefit**

- A. Every month, the ASRS shall provide a Premium Benefit to the Employer on behalf of a retired member, Disabled member, or Contingent Annuitant who maintains Coverage and is eligible to receive a Premium Benefit pursuant to R2-8-202.
- B. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration or the ASRS, the ASRS shall reduce the retired member's pension amount by the amount of the retired member's Net Premium for Coverage pursuant to this Article, unless the Net Premium exceeds the pension amount.
- C. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the ASRS and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the retired member's insurance company and the ASRS shall:
  1. Not reduce the retired member's pension amount; and
  2. Remit payment of the Premium Benefit to the retired member's insurance company.
- D. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

for remitting the Net Premium to the Arizona Department of Administration and the ASRS shall:

1. Not reduce the retired member's pension amount; and
  2. Remit payment of the Premium Benefit to the Arizona Department of Administration.
- E.** If a Disabled member who is eligible to receive a Premium benefit pursuant to R2-8-202 maintains Coverage with the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the Arizona Department of Administration, unless the Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- F.** If a Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with the ASRS, the ASRS shall remit the Premium Benefit to the Disabled member's insurance company and the Disabled member shall be responsible for remitting the Net Premium to the Disabled member's insurance company.
- G.** If a retired member or Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with an Employer other than the ASRS or the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the retired member's or Disabled member's Employer, unless the retired member or Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- H.** If a retired member or Disabled member is eligible to receive a Premium Benefit pursuant to R2-8-202, the ASRS shall provide the lesser of the following for any one retired member or Disabled member:
1. The actual cost of the Coverage premium; or
  2. The greatest Premium Benefit calculation for which the retired member or Disabled member is eligible pursuant to R2-8-202.
- I.** If a retired member is eligible to receive a Premium Benefit pursuant to R2-8-202 and the member retires from the ASRS in addition to retiring from another State retirement system or plan described in A.R.S. § 38-921, each month, the ASRS shall remit any Premium Benefit for which the retired member is eligible under this Article to the other State retirement system or plan from which the member retired.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

**R2-8-204. Premium Benefit Calculation**

- A.** A Single Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or non-Medicare status.
- B.** A Family Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or Non-Medicare status, and the Medicare or Non-Medicare status of any dependents for which the retired member or Disabled member has obtained Coverage.
- C.** A Contingent Annuitant who is eligible to receive an Optional Premium Benefit pursuant to R2-8-207 shall receive an Optional Premium Benefit amount based on:
1. The retired member's years of service and optional retirement benefit election pursuant to A.R.S. § 38-760; and
  2. The Contingent Annuitant's Coverage and Medicare or non-Medicare status.

- D.** Notwithstanding R2-8-203(H), if a Contingent Annuitant is a retired member, the Contingent Annuitant may be entitled to receive more than one Premium Benefit.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-205. Premium Benefit Documentation**

- A.** Every year, prior to the effective date of Coverage, an Employer shall report to the ASRS all the Coverage plans and premium rates the Employer offers to its retired or Disabled employees.
- B.** An Employer shall inform the ASRS of any changes to the retired member's, Disabled member's, or Contingent Annuitant's Coverage, including enrollment in Coverage, maintained through the Employer within 30 days of the changes taking effect.
- C.** Using the Employer's secure ASRS website account, or another ASRS approved method, an Employer shall submit the following health insurance enrollment, change, and/or deletion information pursuant to subsection (B):
1. The retired member's, Disabled member's, or Contingent Annuitant's Social Security number or U.S. Tax Identification number;
  2. The retired member's, Disabled member's, or Contingent Annuitant's full name;
  3. The retired member's, Disabled member's, or Contingent Annuitant's date of birth;
  4. The Coverage in which the retired member, Disabled member, or Contingent Annuitant is enrolling;
  5. The type of change that is being made to the Coverage;
  6. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
    - a. First and last name;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth; and
    - d. Medicare number, if applicable.
  7. The old and new premium amounts for Coverage;
  8. The effective date of the change, deletion, and/or enrollment;
  9. The Employer's name and telephone number;
  10. A certification by the Employer representative's dated signature that the information is current and correct.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-206. Six-Month Reimbursement Program**

- A.** For a retired member or Disabled member who is eligible for a Premium Benefit pursuant to R2-8-202(A)(4) or (B), the ASRS shall remit the Premium Benefit to the retired member or Disabled member pursuant to subsection (B).

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- B. Pursuant to subsection (A), the ASRS shall remit the Premium Benefit to the retired member or Disabled member every six months, payable in July and January. For purposes of this Section, the Premium Benefit shall be the aggregate amounts of the Premium Benefit the retired member or Disabled member is entitled to receive during the previous six months.
- C. In order to receive a Premium Benefit payment pursuant to subsection (B), a retired member or Disabled member shall submit to the ASRS the Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form after the last day of the last month for which the retired member or Disabled member is seeking reimbursement.
- D. The Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form that a retired member or Disabled member submits pursuant to subsection (C) shall include the following information:
1. The retired member's or Disabled member's Social Security number or U.S. Tax Identification number;
  2. The retired member's or Disabled member's full name;
  3. The retired member's or Disabled member's mailing address and phone number;
  4. The retired member's or Disabled member's date of birth;
  5. The retired member's or Disabled member's status with the ASRS;
  6. The retired member's or Disabled member's status with the retired member's or Disabled member's Employer;
  7. The following Coverage information for the Coverage policy holder:
    - a. First and last names;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth;
    - d. Effective date of Coverage;
  8. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
    - a. First and last name;
    - b. Social Security number or U.S. Tax Identification number;
    - c. Date of birth;
    - d. Effective date of Coverage;
  9. Six-month reimbursement totals identified by:
    - a. The month and year the premium is due for Coverage;
    - b. The total medical plan premium per month;
    - c. The total dental plan premium per month;
    - d. The employee's out-of-pocket payroll deduction for a medical premium per month;
    - e. The employee's out-of-pocket payroll deduction for a dental premium per month;
    - f. The employee's total out-of-pocket payroll deduction for medical and dental premiums per month;
  10. The Employer's name;
  11. The Employer's phone number;
  12. The Employer's email address;
  13. The name of the Employer's representative; and
  14. The dated signature of the Employer's representative.
- Historical Note**
- New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).
- R2-8-207. Optional Premium Benefit**
- A. A member who retires on or after January 1, 2004 is eligible to elect the Optional Premium Benefit to be effective on the date of the retired member's retirement and may designate a Contingent Annuitant to receive the Optional Premium Benefit upon the death of the retired member if:
1. The retired member elects a retirement option under A.R.S. § 38-760; and
  2. The retired member elects to maintain Coverage.
- B. A retired member who returns to active membership for 60 consecutive months or more before retiring again, may elect or re-elect the Optional Premium Benefit pursuant to subsection (A).
- C. A retired member who does not return to active membership for 60 consecutive months or more before retiring again is not eligible to elect the Optional Premium Benefit pursuant to subsection (A) unless the retired member elected the Optional Premium Benefit to be effective on the date of the retired member's Original Retirement Date.
- D. In order to elect, re-elect, or terminate the Optional Premium Benefit pursuant to subsection (A), the retired member shall submit to the ASRS the Optional Premium Benefit Program Election or Termination form containing the following information:
1. The retired member's Social Security number or U.S. Tax Identification number;
  2. Whether the retired member is electing, declining, or terminating the Optional Premium Benefit;
  3. The following information for the Contingent Annuitant if the retired member is electing or re-electing the Optional Premium Benefit:
    - a. The Social Security number or U.S. Tax Identification number;
    - b. The full name; and
    - c. The date of birth, if not On File; and
  4. Certification of understanding by the retired member's dated signature of the following statements:
    - a. I have a one-time election at the time of retirement for this benefit, and have a retirement date on or after January 1, 2004;
    - b. I must elect a Joint & Survivor or Period-Certain annuity option;
    - c. If I elect to participate, my Contingent Annuitant must be either participating or eligible to participate in my retiree health care plan at the time of my death;
    - d. I must provide proof of birth date for my Contingent Annuitant;
    - e. The Premium Benefit will be actuarially reduced for the remainder of my benefit and my Contingent Annuitant's benefit as long as the Optional Premium Benefit is elected; and
    - f. I may rescind the election at any time and be eligible for the unreduced Premium Benefit payable as provided by law.
- E. In order to elect or re-elect the Optional Premium Benefit, a member shall submit the Optional Premium Benefit Program Election or Termination form to the ASRS prior to the member's Original Retirement Date.
- F. A Contingent Annuitant the retired member designates to receive the Optional Premium Benefit upon the retired member's death is eligible to receive a Premium Benefit if:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. The retired member designates the Contingent Annuitant as the primary beneficiary on the member's retirement account;
  2. The Contingent Annuitant is enrolled in a Coverage plan at the time of the member's death or the Contingent Annuitant enrolls in a Coverage plan within six months of the retired member's death pursuant to A.R.S. § 38-782(A); and
  3. The Contingent Annuitant is eligible to receive at least one monthly payment.
- G.** Upon the death of a retired member who elected the Optional Premium Benefit pursuant to subsection (A), the ASRS shall provide the Optional Premium Benefit on behalf of the retired member's Contingent Annuitant who is eligible to receive the Optional Premium Benefit pursuant to subsection (F).
- H.** Notwithstanding subsection (G), the amount of the Optional Premium Benefit the ASRS provides on behalf of a Contingent Annuitant shall not exceed the actual amount of the Coverage premium.
- I.** Unless otherwise indicated by law, the Optional Premium Benefit shall not terminate upon the death of the retired member if a Contingent Annuitant is eligible for the Optional Premium Benefit pursuant to subsection (F).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**ARTICLE 3. LONG-TERM DISABILITY****R2-8-301. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Attending Physician" means a provider:
  - a. Who is a qualified medical provider or other legally qualified practitioner of a healing art that the claims administrator recognizes or is required by law to recognize;
  - b. Whose medical training and clinical experience are qualified to treat the member's disabling condition;
  - c. Whose diagnosis and treatment is consistent with the diagnosis of the disabling condition, according to guidelines established by medical, research, and rehabilitative organizations;
  - d. Who is licensed to practice in the jurisdiction where care is being given;
  - e. Who is practicing within the scope of the license; and
  - f. Who is not related to the member by blood or marriage.
2. "Direct Care" means the member is actively receiving treatment from a provider for the member's disability at least once per calendar year.
2. "Estimated Social Security disability income amount" means the same as in R2-8-801(2).
3. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.

4. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
5. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).
6. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-302. Application for Long-Term Disability Benefit**

- A.** In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.
- B.** Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.
- C.** Pursuant to A.R.S. § 38-797.07(11), in order to submit an application for an LTD benefit, a member must provide objective medical evidence from an Attending Physician.
- D.** Pursuant to A.R.S. § 38-797.07(7)(b)(i), in order to continue receiving an LTD benefit, the disabled member must be under the Direct Care of a doctor.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-303. Long-Term Disability Calculation**

- A.** The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).
- B.** For a member whose monthly compensation is \$0 as of the date of disability, the ASRS shall pay a monthly benefit of \$50 unless the benefit is reduced pursuant to R2-8-807 or required to be reduced pursuant to A.R.S. § 38-797.07(A)(2).
- C.** The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).
- D.** Notwithstanding any other section, a member who became disabled on or after August 27, 2019, shall not receive a benefit under this article that would increase the member's monthly compensation after disability to an amount that exceeds 100% of the member's monthly compensation before disability.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3). Amended by final rulemaking at 27 A.A.R. 89, effective March 9, 2021 (Supp. 21-1).

**R2-8-304. Payment of Long-Term Disability Benefit**

- A.** The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

sooner than six months after the date the disabled member became disabled.

- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-305. Social Security Disability Appeal**

- A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.
- B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.
- C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:
  1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or
  2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.
- D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

**R2-8-306. Approval of Social Security Disability**

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or
2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD****R2-8-401. Definitions**

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.
4. "Health Plan" means an arrangement under which ASRS engages a Health Plan Vendor for coverage for members and their eligible dependents for routine, preventive, and emergency health-care procedures, pharmaceuticals, dental, vision, or other services and benefits funded through an insurance policy in which the Health Plan Vendor processes and pays claims as an insurer, or a self-funded arrangement in which the Health Plan Vendor processes and pays claims using ASRS funds.
5. "Health Plan Vendor" means an entity that enters into a contract with ASRS to provide an insured Health Plan or to administer, process, and pay claims for a Health Plan self-insured by ASRS.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 23 A.A.R. 2749, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 28 A.A.R. 223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R2-8-402. General Procedures**

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

**R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action**

- A. After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
  1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
  2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision or Health Plan Vendor decision.
- B. Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
  1. The decision the agency is making in response to the letter of appeal; and

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.
- C. A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.
- D. Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such director's designee shall send a response letter by certified mail to the person requesting the appeal that includes:
1. The agency action the ASRS is taking in response to the letter of appeal; and
  2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).
- E. For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
1. The name and mailing address of the member, employer, or other person filing the Request;
  2. The name and mailing address of the attorney for the person filing the Request, if applicable;
  3. A concise statement of the reasons for the appeal.
- F. The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).
- G. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).
- H. Pursuant to subsection (B):
1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
  2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.
- I. The Board has delegated to each Health Plan Vendor the authority to:
1. Interpret and apply the terms of the Health Plan Vendor's particular Health Plan;
  2. Determine whether a particular benefit is included in the Health Plan and, if included, the amount of payment to be made under the Health Plan; and
  3. Perform a full and fair review of any decision by the Health Plan Vendor regarding benefits included in or payments to be made under the Health Plan if the decision is appealed in accordance with the Health Plan Vendor's specified procedures.
- J. An individual who is enrolled in a Health Plan made available by ASRS and who wishes to appeal a decision by the Health Plan Vendor shall follow the appeal procedures specified in the applicable Health Plan description.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 28 A.A.R.

223 (January 21, 2022), with an immediate effective date of January 5, 2022 (Supp. 22-1).

**R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings**

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular meeting, shall be reviewed by the Board at that meeting. At the meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the meeting at which the Board made the final decision.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision**

- A. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.
- B. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.
- C. A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.
- D. The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;
  2. Misconduct of the Board, the hearing officer, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the process of the action; or
  7. That the decision, or findings of fact, is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the final administrative decision or grant a rehearing before the Board or review of final administrative decision to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- granting a rehearing or review shall specify with particularity the grounds for the order.
- F.** Not later than 10 days after the final administrative decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its final administrative decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- G.** When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- H.** The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- I.** If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.
- Historical Note**
- New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).
- ARTICLE 5. PURCHASING SERVICE CREDIT**
- R2-8-501. Definitions**
- The following definitions apply to this Article unless otherwise specified:
1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
  2. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
  3. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
    - a. Eligible Member's Current Years of Credited Service;
    - b. Eligible Member's age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;
    - c. Amount of Service Credit the member wishes to purchase; and
    - d. Member's current annual compensation.
  4. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member's IRA or 403(b) is not maintained by the member's Employer.
  5. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
  6. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
  7. "Direct rollover" means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
  8. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
  9. "Eligible member" means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
  10. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
  11. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
  12. "Irrevocable PDA" means an irrevocable "Payroll Deduction Authorization" contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
  13. "Leave of absence service" means an approved leave of absence without pay as specified in A.R.S. § 38-744.
  14. "LTD" means the same as in R2-8-301.
  15. "Military Call-up service" means a member is called to Active Duty in a branch of the United States Uniformed Services.
  16. "Military service" means Active Duty or Active Reserve Duty with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
  17. "Military service record" means a United States Uniformed Services or National Oceanic and Atmospheric Administration document that provides the following information:
    - a. The member's full name;
    - b. The member's Social Security number;
    - c. Type of discharge the member received; and
    - d. Active Duty dates, if applicable; or
    - e. Active Reserve Duty dates, if applicable; and
    - f. Point history for Active Reserve Duty dates, if applicable.
  18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
  19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
  20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
  21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service under A.R.S. § 38-745, and Other Public Service that an Eligible Member may purchase.
  22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- money required to purchase a specified amount of Service Credit.
23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).
  24. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
  25. "Transfer employment" means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
    - a. After accepting an offer to work for a new Employer;
    - b. While working as an active member for a different Employer; or
    - c. Before returning to work with any Employer within 120 days of terminating employment.
  26. "Trustee-to-Trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
  27. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
  28. "Window credit" means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.
2. This transaction is subject to audit. If any errors or misrepresentations are discovered as a result of an audit, the Eligible Member's total credited service with the ASRS will be adjusted as necessary and if the Eligible Member is retired, the Eligible Member's retirement benefit will also be adjusted. Any overpayment or overpayments will be refunded. However, if a payment made with a rollover or pre-tax dollars is returned to the Eligible Member, there may be tax consequences as a result of this refund.
- C. Upon receipt of the documentation required by this Article from the Eligible Member and if the Eligible Member's request to purchase Service Credit meets the requirements of this Article, the ASRS shall provide the following to the Eligible Member:
    1. An SP Invoice stating the cost to purchase the amount of Service Credit the member is eligible to purchase;
    2. Instructions for electing method of payment; and
    3. The date payment election is due.
  - D. An Eligible Member who requests to purchase Service Credit pursuant to this Section shall elect one or more methods of payment and submit the election to the ASRS by the date payment election is due.
  - E. An Eligible Member who elects to purchase Service Credit using after-tax payments shall acknowledge the following information:
    1. After-tax payments must be from the Eligible Member and remitted to the ASRS by the Eligible Member;
    2. After-tax payments cannot be used to purchase political subdivision employment with a United States territory, commonwealth, overseas possession, or insular area; and
    3. If the Eligible Member joined the ASRS on or after July 1, 1999, §§ 415(b) and 415(c) of the IRC limit the after-tax money the Eligible Member can use to purchase Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-502. Request to Purchase Service Credit and Notification of Cost**

- A. An Eligible Member may request to purchase Service Credit electronically. The Eligible Member shall verify at the time of request, the following information for the Eligible Member:
  1. Name;
  2. Mailing address;
  3. Date of birth;
  4. Marital status;
  5. Gender;
  6. Primary email address;
  7. Primary phone number; and
  8. Which category of Service Credit the Eligible Member is requesting to purchase.
- B. An Eligible Member who requests to purchase Service Credit pursuant to subsection (A) shall acknowledge the following statements of understanding:
  1. Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the retirement plan with an intent to defraud the plan is guilty of a class 6 felony per A.R.S. § 38-793; and

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-503. Requirements Applicable to All Service Credit Purchases**

- A. To purchase Service Credit at the amount provided in an SP Invoice, an Eligible Member shall purchase the Service Credit by check or money order, or request an Irrevocable PDA, Direct Rollover, Trustee-to-Trustee Transfer, or Termination Pay as specified in this Article, by the due date specified by the method of payment the Eligible Member elected.
- B. An Eligible Member may purchase all of the Service Credit or a portion of the Service Credit. If the Eligible Member wishes to purchase only a portion of the Service Credit, the Eligible Member shall specify:
  1. Either the number of years or partial years of Service Credit the Eligible Member wishes to purchase; or
  2. The cost for the number of years or partial years of Service Credit the Eligible Member wishes to purchase, not exceeding the years or partial years and cost specified on the SP Invoice.
- C. The ASRS shall not consider more than one active request at a time from a member to purchase Service Credit in a single category. The categories are:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Leave of Absence Service;
  2. Military Service;
  3. Forfeited Service; and
  4. Other Public Service.
- D.** An Eligible Member may cancel an active request by notifying the ASRS in writing.
- E.** If an Eligible Member is entitled to a Window Credit, the Eligible Member may apply the Window Credit to purchase Service Credit. To apply a Window Credit to a purchase of Service Credit, the Eligible Member shall make a request to the ASRS in writing by the date payment election is due as specified on the SP Invoice and include the following information:
1. The amount the Eligible Member wants to apply, and
  2. The Eligible Member's dated signature.
- F.** On or before the due date specified on the SP Invoice, an Eligible Member may request an extension of a due date for purchasing Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-504. Service Credit Calculation for Purchasing Service Credit**

- A.** An Eligible Member who purchases Service Credit shall receive one month of credited service for one or more days of service in a calendar month.
- B.** Pursuant to A.R.S. 38-739(B), an Eligible Member who purchases Service Credit shall receive a proportionate amount of credited service based on the length of the Eligible Member's service year.
- C.** Notwithstanding any other provision, an Eligible Member whose membership date is on or after July 20, 2011, cannot purchase more than five years of Service Credit for each of the following based on the length of the Eligible Member's service year:
1. Leave of Absence Service;
  2. Military Service; and
  3. Other Public Service.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-505. Restrictions on Purchasing Overlapping Service Credit**

The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:

1. One year of credited service in any plan year, or
2. One month of credited service in any one calendar month.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-506. Cost Calculation for Purchasing Service Credit**

- A.** For Service Credit for Leave of Absence Service, Military Service, and Other Public Service, the ASRS shall calculate, as of the date of the request to purchase Service Credit:
1. The Actuarial Present Value of the future retirement benefit for the Eligible Member including the Service Credit that the Eligible Member requests to purchase, and
  2. The Actuarial Present Value of the future retirement benefit for the Eligible Member without the Service Credit that the Eligible Member requests to purchase.
- B.** The cost for purchasing the Service Credit that the Eligible Member requests to purchase is the difference between the Actuarial Present Value in subsection (A)(1) and the Actuarial Present Value in subsection (A)(2).

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-507. Required Documentation and Calculations for Forfeited Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Forfeited Service under A.R.S. § 38-742 shall provide the ASRS:
1. The name of an Employer, if known, for which the Eligible Member is requesting to purchase Service Credit for Forfeited Service; and
  2. The year and month the Eligible Member believes the ASRS returned retirement contributions.
- B.** Upon receipt of payment as specified in subsection (D), the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- C.** Notwithstanding subsection (B), if an Eligible Member has more than one return of contributions pursuant to A.R.S. § 38-740, the Eligible Member may elect to purchase Forfeited Service for any of the return of contributions and the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- D.** The amount the Eligible Member shall pay to purchase Service Credit for previously Forfeited Service is the amount of retirement contributions that the ASRS issued, plus interest on that amount from the date on the return of retirement contributions check to the date of redeposit at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Amended by final expedited rulemaking at 27 A.A.R. 479, with an immediate effective of March 5, 2021 (Supp. 21-1).

**R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Leave of Absence Service under A.R.S. § 38-744 shall provide to the ASRS an Approved Leave of Absence form that includes:
1. The following information completed by the Eligible Member:
    - a. The start date and end date of the approved leave of absence;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- b. The date the Eligible Member returned to work or a statement of why employment was not resumed;
  - c. The name of the Employer;
  - d. Whether the Eligible Member participated in another public retirement system during this leave of absence; and
  - e. If the Eligible Member participated in another public retirement system during the leave of absence, whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the other public retirement system; and
2. Acknowledgement of the following statements of understanding:
    - a. The Eligible Member understands that up to one year of Service Credit may be purchased for each approved leave of absence, if the Eligible Member returns to work for the Employer that approved the leave of absence unless employment could not be resumed because of disability or nonavailability of a position;
    - b. The Eligible Member authorizes the Employer to provide any necessary personal information to ASRS in order to process this request; and
    - c. The Eligible Member certifies that if the Eligible Member participated in another public retirement system during the approved leave of absence, the Eligible Member is not receiving, and is not eligible to receive, a benefit from the other public retirement system for the time during the approved leave of absence; and
  3. The Eligible Member's dated signature.
- B.** Pursuant to A.R.S. § 38-744, a member who participated in another public retirement system during the leave of absence, and is receiving a benefit or is eligible to receive a benefit from the other public retirement system, is not an Eligible Member for purposes of this Section.
- C.** If the information provided by the Eligible Member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the Eligible Member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account.
- D.** Upon submitting the information specified in subsection (B), the Employer shall acknowledge the following statements of understanding:
1. The Employer has verified all the dates for the approved leave of absence period are correct; and
  2. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- E.** The amount the Eligible Member shall pay to purchase Service Credit for an approved leave of absence is determined as provided in R2-8-506.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-509. Required Documentation and Calculations for Military Service Credit**

- A.** An Eligible Member who requests to purchase Service Credit for Military Service under A.R.S. § 38-745(A) and (B) shall provide to the ASRS:

1. A copy of the Eligible Member's Military Service Record within 30 days of the Eligible Member's request to purchase Service Credit; and
2. A Military Service form that contains:
  - a. Whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the military.
  - b. The branch of the Uniformed Services the Eligible Member was in;
  - c. Whether the Eligible Member was on Active Duty or Active Reserve Duty;
  - d. The start date and end date of the Eligible Member's Military Service for which the Eligible Member is requesting to purchase Service Credit;
  - e. Acknowledgement that the Eligible Member will submit to the ASRS:
    - i. Proof of honorable separation for each type of Military Service listed on the form; and
    - ii. The Eligible Member's Military Service Record that supports all of the service listed on the form;
  - f. Acknowledgement of the following statements of understanding:
    - i. The Eligible Member understands that the service listed on this form does not include time that the Eligible Member either volunteered or was ordered into Active Duty service as part of a military call-up while employed by an Employer. This service is purchased under Military Call-up Service and requires a Military Call-up form to be completed by the Eligible Member's Employer; and
    - ii. The Eligible Member understands that any time the Eligible Member has listed on this form for Reserve or National Guard time reflects the months that the Eligible Member attended at least one drill or assembly for each month listed.

- B.** The amount the Eligible Member pays to purchase Service Credit for Military Service is determined as provided in R2-8-506.
- C.** The ASRS determines the amount of Service Credit an Eligible Member receives for Active Duty and Active Reserve Duty time by the time listed on the Military Service form, if the service listed is supported by the information contained in the Eligible Member's Military Service Record.
- D.** If the ASRS has not received complete and correct documents pursuant to this Section within 30 days of the request to purchase Service Credit, the ASRS shall cancel the Eligible Member's request to purchase Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-510. Required Documentation and Calculations for Military Call-up Service Credit**

- A.** An Eligible Member who meets the requirements under A.R.S. § 38-745(D) shall receive up to 60 months of Service Credit, not to exceed 5 years of Service Credit for Military Call-up Service under A.R.S. § 38-745(D) through (K). In order to determine the amount of contributions the Employer owes to purchase Service Credit for Military Call-up Service, the Eligible Member's Employer shall provide to the ASRS a

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

copy of the Eligible Member's Military Service Record and a completed Military Call-up form that includes the following:

1. The Eligible Member's full name;
  2. The Eligible Member's Social Security number;
  3. The start date of Military Call-up Service;
  4. The end date of Military Call-up Service;
  5. The date the Eligible Member returned to work for the Employer;
  6. The salary for each pay period in each fiscal year while the Eligible Member was on military call-up, including any salary increases the Eligible Member would have received had the Eligible Member not left work due to military call-up;
  7. The name of a contact individual for the Employer, and that individual's business telephone number;
  8. The contact individual's dated signature;
  9. If applicable, the dates that the Eligible Member was hospitalized and released from the hospital as a result of participating in a military call-up.
  10. If applicable, the date the Eligible Member became disabled during or as a result of participating in a military call-up;
  11. If applicable, the date of the Eligible Member's death during or as a result of participating in a military call-up; and
  12. Acknowledgement of the following statements of understanding:
    - a. All the dates and payroll information for the Military Call-up Service are correct;
    - b. The Eligible Member:
      - i. Was honorably separated from Active Duty and returned to the same Employer within 90 days of either discharge from Active Duty or release from service-related hospitalization; or
      - ii. Was disabled and unable to return to work; or
      - iii. Died during or as a result of Active Duty.
    - c. The Employer must pay both the employee and Employer contributions in a lump sum upon the Eligible Member returning to employment, receipt of a declaration of disability, or receipt of a death certificate. These contributions are based on the salary the Eligible Member would have earned if the Eligible Member had not volunteered or been ordered into Active Duty;
    - d. The Eligible Member may receive a maximum of 60 months of Service Credit for Military Call-up Service pursuant to A.R.S. § 38-745; and
    - e. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- B.** An Employer shall make the request to purchase Service Credit for Military Call-up Service within 30 days after the earlier of the dates listed in A.R.S. § 38-745(E).
- C.** The ASRS calculates the amount the Employer pays to purchase Military Call-up Service pursuant to A.R.S. § 38-745(G) by multiplying the Eligible Member's salary per pay period at the time Active Duty commences, by the contribution rate in effect for the period of Active Duty. Included in the calculation are any salary increases the Eligible Member would have received if the Eligible Member had not left work to participate in a military call-up.
- D.** The ASRS shall send the Employer a statement of cost for purchase of the Service Credit for Military Call-up Service based on the calculation in subsection (C). Within 90 days from the date on the ASRS statement of cost, the Employer shall pay to the ASRS the amount on the statement. If the Employer fails to make full payment within 90 days, interest shall accrue on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect on the date of the statement of cost as specified in R2-8-118(A). The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- E.** If an Employer remits retirement or long-term disability contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, the Employer shall reverse the contributions after the ASRS receives the information in subsection (A).
- F.** If an Employer remits retirement contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, and the Eligible Member does not return to the Employer after separation from active Military Service, the ASRS shall apply the retirement contributions to the Eligible Member's credited service.

#### Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

#### R2-8-511. Required Documentation and Calculations for Other Public Service Credit

- A.** An Eligible Member who requests to purchase Service Credit for Other Public Service under A.R.S. § 38-743 shall provide to the ASRS a completed Other Public Service form, signed and dated by the Eligible Member, that includes the following:
1. The name and mailing address of the Other Public Service employer;
  2. The position the Eligible Member held while working for the Other Public Service employer;
  3. The start date and end date of the Eligible Member's employment with the Other Public Service employer;
  4. The actual months and years the Eligible Member was employed with the Other Public Service employer;
  5. A statement of whether the Eligible Member participated in the Other Public Service employer's retirement plan;
  6. If the Eligible Member participated in the Other Public Service employer's retirement plan, the name of the retirement plan, identifying whichever one of the following applies:
    - a. The approximate date the Eligible Member took a return of retirement contributions;
    - b. The plan is non-contributory and the Eligible Member is not eligible for benefits from the plan; or
    - c. That, if not using all of the retirement contributions as a rollover, the Eligible Member will request a return of retirement contributions and forfeit all rights to any benefits from the plan and provide the ASRS with documentation that the Eligible Member has forfeited all rights to benefits from the plan no later than the due date specified on the SP Invoice; and
  7. Acknowledgement that if an audit determines that the Eligible Member is eligible for a benefit from the Other Public Service employer's retirement plan, the Eligible Member is required to take necessary steps to forfeit the benefit, and if the forfeiture is not completed within 90 days of being notified of the audit results, the Service Credit purchase listed on this application will be revoked and any funds paid to purchase the Service Credit will be refunded to the member.
- B.** The amount the Eligible Member shall pay to purchase Service Credit for Other Public Service is determined as provided in R2-8-506.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- C. Notwithstanding R2-8-512, the ASRS shall not accept after-tax monies for the purchase of Service Credit for Other Public Service with a territory, commonwealth, overseas possession or insular area pursuant to A.R.S. § 38-743.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order**

- A. An Eligible Member may purchase Service Credit by personal check in the Eligible Member's name, cashier's check, or money order remitted by the Eligible Member.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives a check, cashier's check, or money order made payable to the ASRS in the amount to purchase the requested Service Credit.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513. Purchasing Service Credit by Irrevocable PDA**

- A. An Eligible Member may purchase Service Credit by Irrevocable PDA.
- B. If the Eligible Member elects to pay for Service Credit by Irrevocable PDA, the Eligible Member shall elect the terms of the Irrevocable PDA and submit the Irrevocable PDA to the ASRS and the Employer with the following:
1. Acknowledgements:
    - a. This Irrevocable PDA is binding and irrevocable;
    - b. This Irrevocable PDA shall remain in effect until the earlier of:
      - i. The authorized payroll deductions are completed; or
      - ii. The Eligible Member terminates employment.
    - c. The ASRS cannot terminate the Irrevocable PDA due to financial hardship;
    - d. The amount of Irrevocable PDA payments the Eligible Member makes is subject to federal laws;
    - e. The cost to purchase Service Credit by Irrevocable PDA includes an administrative interest charge at the Assumed Actuarial Investment Earnings Rate in effect at the time of the authorization as specified in R2-8-118(A);
    - f. Payments specified in this Irrevocable PDA are in addition to the regular contributions required pursuant to A.R.S. §§ 38-736 and 38-797.05;
    - g. The ASRS shall apply credited service to the Eligible Member's account upon receipt of payments authorized by the Eligible Member under this Irrevocable PDA; and
    - h. The ASRS shall not transfer, refund, or disburse the administrative interest that the ASRS charges pursuant to subsection (B)(1)(e); and
  2. Statements of Understanding:
    - a. It is the Eligible Member's responsibility to ensure the Eligible Member's Employer properly deducts payments and submits contributions as provided by the terms of the Irrevocable PDA;

- b. Payments specified by the terms of this Irrevocable PDA shall be made directly to the ASRS from the Eligible Member's Employer and the Eligible Member does not have the option of receiving such payments directly from the Employer;
- c. The Eligible Member's Employer shall make payments pursuant to this Irrevocable PDA after other mandatory deductions are made;
- d. The Eligible Member's Employer cannot accept an election to change this Irrevocable PDA;
- e. The Eligible Member has up to 14 days to request the ASRS calculate the remaining balance of this Irrevocable PDA after the earlier of:
  - i. Terminating employment;
  - ii. Terminating LTD without returning to work with an Employer; or
  - iii. The effective ASRS retirement date;
- f. The Eligible Member must complete a purchase of the remaining balance on this Irrevocable PDA by the due date specified on the PDA Pay-off Invoice;
- g. It is the Eligible Member's responsibility to notify the ASRS of any changes in the Eligible Member's employment that may affect the status of this Irrevocable PDA;
- h. If the Eligible Member terminates employment and returns to work with an Employer within 120 days of terminating employment, this Irrevocable PDA must continue with the new Employer pursuant to R2-8-513.01; and
  - i. If the Eligible member terminates employment and does not return to work with an Employer within 120 days of terminating employment, the ASRS shall terminate this Irrevocable PDA pursuant to R2-8-513.01.

- C. By submitting the Irrevocable PDA to the ASRS, the Irrevocable PDA is deemed to be signed by the Eligible Member.
- D. At the time the Eligible Member elects the Irrevocable PDA, the Eligible Member may elect to use Termination Pay towards the balance of the Irrevocable PDA if the Eligible Member terminates employment. If the Eligible Member elects to use Termination Pay, the Eligible Member shall submit the Irrevocable PDA to the ASRS with the following information:
1. A statement that the Eligible Member:
    - a. Understands and agrees that the Eligible Member must continue working at least Three Full Calendar Months after the date of submission of the form before Termination Pay may be used on a pre-tax basis;
    - b. Understands that if the Termination Pay exceeds the balance owed on the Irrevocable PDA, the overage will be returned to the Employer to be distributed to the Eligible Member;
    - c. Understands that the election to use Termination Pay is binding and irrevocable;
    - d. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
    - e. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
    - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
- h. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
2. Whether the Eligible Member is electing either all Termination Pay or a specified amount of Termination Pay to be applied to the balance of the Irrevocable PDA.
- E.** The ASRS shall:
1. Charge interest on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect at the time the Eligible Member submitted the request to purchase service as specified in R2-8-118(A);
  2. Limit the payroll deduction time period to a maximum of 520 payments; and
  3. Require a minimum payment of \$10.00 per payroll period, or payment in an amount to purchase at least .001 years of Service Credit per payroll period, whichever is greater.
- F.** The Employer shall implement the payroll deduction on the first pay period after receiving the Irrevocable PDA.
- G.** If a deduction is not made under an Irrevocable PDA within six months after the Eligible Member submits the authorization, the authorization lapses and the Eligible Member may make another request, which is recalculated based on the new request date unless the failure to begin deductions is due to an ASRS error.
- H.** A period of leave of absence, LTD, or military call-up shall not cancel the Irrevocable PDA. The Employer shall resume deductions immediately upon the Eligible Member's return to that Employer. The period during which the Eligible Member is on leave of absence, on LTD, or leaves work because of a military call-up is not included in the payment time limitation under subsection (D)(2). If the Eligible Member does not return to active working status, whether due to termination of employment or retirement, the Eligible Member may elect to purchase the balance of unpaid service under the Irrevocable PDA at the time of termination or retirement as specified in this Section.
- I.** Deductions made pursuant to an Irrevocable PDA continue until the:
1. Irrevocable PDA is completed;
  2. Eligible Member retires, whether or not the Eligible Member continues employment as allowed in A.R.S. §§ 38-766.01 and 38-764(I);
  3. Eligible Member terminates all ASRS employment without transferring employment; or
  4. Date of the Eligible Member's death.
- J.** If an Eligible Member retires or terminates employment from all Employers without transferring employment as stated in R2-8-513.01 before all deductions are made as authorized by the Irrevocable PDA, the ASRS shall cancel the Eligible Member's Irrevocable PDA unless the Eligible Member notifies the ASRS of the Eligible Member's intent to purchase the remaining amount within 14 days after the earlier of either termination or retirement.
- K.** When the Eligible Member notifies the ASRS of retirement or termination from all ASRS employment and requests to pay off the Irrevocable PDA, the ASRS shall send the Eligible Member a PDA Pay-off Invoice through the Eligible Member's secure ASRS account. The ASRS shall calculate the amount owed by the Eligible Member.
- L.** By the date payment election is due, the Eligible Member shall ensure that the ASRS receives the information specified in R2-8-502(C).
- M.** The Eligible Member may purchase the remaining Service Credit by one or more of the following methods by the due date specified on the PDA Pay-off Invoice:
1. By any method specified in R2-8-512;
  2. By making a request to the ASRS for a rollover or transfer under R2-8-514 and completing the rollover or transfer by the due date specified on the PDA Pay-off Invoice; or
  3. By Termination Pay under R2-8-519, if the Eligible Member authorized this option at the time the Eligible Member signed the Irrevocable PDA.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513.01. Irrevocable PDA and Transfer of Employment to a Different Employer**

- A.** If an Eligible Member Transfers Employment, the Eligible Member's new Employer shall continue to make deductions pursuant to an Irrevocable PDA.
- B.** If an Eligible Member terminates employment without having accepted an offer to work with an Employer, the ASRS shall terminate an Irrevocable PDA.
- C.** Notwithstanding subsection (B), if a retirement contribution is due from a new Employer within 120 days from the Eligible Member's termination date with the previous Employer, the ASRS shall determine that the Eligible Member Transferred Employment, unless the Eligible Member notified the ASRS of the termination of employment.
- D.** If an Eligible Member who has elected Termination Pay pursuant to R2-8-513(D) Transfers Employment, the ASRS shall not accept any Termination Pay that the ASRS receives from the Eligible Member's previous Employer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-513.02. Termination Date**

- For the purpose of an Irrevocable PDA, the date an Eligible Member is considered terminated from an Employer is:
1. For an Eligible Member terminating employment, the Eligible Member's last pay period end date with that Employer;
  2. For an Eligible Member on military call-up who does not return to the same Employer:
    - a. 90 days from the date of separation from military call-up;
    - b. 90 days from the date released from the hospital, if injured while on military call-up; or
    - c. The date the Eligible Member has been hospitalized for two years for injuries sustained as a result of participating in a military call-up.
  3. For an Eligible Member on leave of absence without pay who does not return to the same Employer, the date the Employer required the Eligible Member to return to work;
  4. For an Eligible Member who is unable to work because of a disability, the later of:

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- a. The date the Eligible Member's request for long-term disability benefits are denied;
- b. The date the Eligible Member no longer has leave with pay available; or
- c. For an Eligible Member on long-term disability who does not return to the same Employer or Transfer Employment, the date long-term disability benefits are terminated.
- d. The funds must be sent as a Direct Rollover from a plan listed in subsection (C)(3)(b) and issued to the ASRS for the benefit of the Eligible Member. If the payment is issued to anyone other than the ASRS, including the Eligible Member, then within 60 days of the plan issuing the payment, the Eligible Member must place the payment into a plan specified in subsection (C)(3)(b) to be reissued directly to the ASRS.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer**

- A. An Eligible Member may purchase Service Credit by Direct Rollover or Trustee-to-Trustee Transfer pursuant to this Article.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives the payment for the service purchase and a completed Direct Rollover/Transfer Certification to Purchase Service Credit form.
- C. An Eligible Member who chooses to purchase Service Credit shall provide the following to the ASRS:
  - 1. The name of the financial institution or plan;
  - 2. Whether the Eligible Member is choosing to rollover/transfer the entire balance of their account and if not, the amount of the rollover/transfer;
  - 3. Acknowledgement of the following information:
    - a. After-tax funds are only acceptable from 401(a) and 403(b) plans and must be listed separately from the portion that is pre-tax on the payment as after-tax amounts. This information must be provided to the ASRS with the payment.
    - b. The only fund types that the ASRS accepts are:
      - i. 401(a);
      - ii. 401(k) pre-tax only;
      - iii. 403(b);
      - iv. Governmental 457 pre-tax only;
      - v. 403(a) pre-tax only;
      - vi. 408 Traditional IRA pre-tax only;
      - vii. 408(k) SEP IRA pre-tax only;
      - viii. 408(p) Simple IRA pre-tax only and only if the Eligible Member participated for at least 2 years in this plan;
    - c. The ASRS shall not accept the following fund types:
      - i. Roth funds;
      - ii. Funds already distributed to the Eligible Member from a retirement plan listed in subsection (C)(3)(b);
      - iii. Inherited IRA;
      - iv. Coverdale Education Savings Account funds;
      - v. Hardship distributions;
      - vi. Funds not includable in gross income;
      - vii. Funds required under § 401(a)(9) of the IRC because the Eligible Member have attained age 70 1/2;
      - viii. One of a series of substantially equal periodic payments made at least annually for the Eligible Member's life;
      - ix. One of a series of substantially equal periodic payments made for 10 years or more;
      - x. After-tax contributions from any plan other than a 401(a) or 403(b) qualified plan;
- D. An Eligible Member who chooses to purchase Service Credit pursuant to this Section shall submit a Direct Rollover/Transfer Certification to Purchase Service Credit form that includes:
  - 1. The Eligible Member's full name;
  - 2. The last 4 digits of the Eligible Member's Social Security number;
  - 3. The Eligible Member's signature certifying that the Eligible Member understands the requirements, limitations, and entitlements for the rollover/transfer that is being used to purchase Service Credit, and has read and understands the Direct Rollover/Transfer Certification to Purchase Service Credit form and any accompanying instructions and information;
  - 4. The Authorized Representative's name and title;
  - 5. The Authorized Representative's telephone number; and
  - 6. Certification by the Authorized Representative's dated signature that:
    - a. The plan is either:
      - i. A qualified pension, profit sharing, or 401(k) plan described in IRC § 401(a), or a qualified annuity plan described in IRC § 403(a);
      - ii. A deferred compensation plan described in IRC § 457(b) maintained by a state of the United States, a political subdivision of a state of the United States, or an agency or instrumentality of a state of the United States;
      - iii. An annuity contract described in IRC § 403(b); or
      - iv. An IRA described in A.R.S. § 38-747(H)(3);
    - b. The rollover/transfer specified on the form from which the pre-tax funds are being rolled over or transferred is intended to satisfy the requirements of the applicable Section of the IRC;
    - c. The Authorized Representative is not aware of any plan provision or any other reason that would cause

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

the plan/IRA not to satisfy the applicable Section of the IRC; and

- d. The funds will be sent to the ASRS as a direct plan rollover, IRA rollover, or a Trustee-to-Trustee Transfer.
  - E. The Eligible Member shall contact the Plan Administrator to have the funds distributed and transferred to the ASRS. Unless the ASRS receives a check for the correct amount from the plan and all documents required by this Article by the due date specified by the method of payment the Eligible Member elected, the ASRS shall cancel the request to purchase Service Credit.
  - F. The Eligible Member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
  - G. If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the Eligible Member.
- B. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with the Eligible Member's anticipated termination date which cannot be more than six months from the date the ASRS issues the SP Invoice and must be at least Three Full Calendar Months after the date the Eligible Member elects and submits Termination Pay as a method of payment.
  - C. An Eligible Member who elects to use Termination Pay pursuant to this Section, shall provide the ASRS with a Termination Pay Authorization for the Purchase of Service Credit form with the following information:
    1. The name of the Employer that will be submitting the Termination Pay to the ASRS;
    2. Whether the Eligible Member elects to use all Termination Pay or a specific amount of Termination Pay;
    3. Signature of the Eligible Member, certifying that the Eligible Member understands that:
      - a. The Eligible Member is required to continue working at least Three Full Calendar Months after the date the Eligible Member submits the Termination Pay Authorization for the Purchase of Service Credit form before Termination Pay may be used on a pre-tax basis;
      - b. If the Eligible Member terminates employment more than six months after the date on the SP Invoice, the Eligible Member may purchase the Service Credit at a newly calculated rate and possibly at a higher cost;
      - c. The terms elected in the Termination Pay Authorization for the Purchase of Service Credit form are binding and irrevocable;
      - d. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
      - e. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
      - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay, as provided in the Termination Pay Authorization for the Purchase of Service Credit form; and
      - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
      - h. If the Termination Pay exceeds the balance due on the SP Invoice, the ASRS will return the difference to the Eligible Member's Employer to be distributed to the Eligible Member;
      - i. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
      - j. The ASRS will send a notification to the Eligible Member's Employer two weeks prior to the Eligible Member's termination date, as indicated on the Termination Pay Authorization form, to notify the Employer that the Eligible Member's Termination Pay must be sent directly to the ASRS.
  - D. The ASRS shall not apply Termination Pay to an SP Invoice covered by an Irrevocable PDA in effect at the time of termination, unless the Eligible Member elected the Termination Pay pursuant to R2-8-513(D) at the time the member authorized the Irrevocable PDA.
  - E. If an Eligible Member elects to use Termination Pay to purchase Service Credit, the ASRS shall not apply any other form

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1). Citations to subsection (C)(3)(b) corrected in subsections (C)(3)(c)(ii) and (C)(3)(d) (Supp. 20-1).

**R2-8-515. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-516. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

**R2-8-517. Expired****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

**R2-8-518. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

**R2-8-519. Purchasing Service Credit by Termination Pay**

- A. To purchase Service Credit using Termination Pay, an Eligible Member shall elect to use Termination Pay by the date payment election is due.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

of payment to the Service Credit purchase until the ASRS receives the Termination Pay.

- F. Notwithstanding any other Section, if an Eligible Member dies prior to terminating employment, the ASRS shall not accept Termination Pay.
- G. If an Eligible Member Transfers Employment, the ASRS shall not accept Termination Pay from the Eligible Member's previous Employer.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA**

- A. If an Eligible Member terminates employment without transferring employment as specified in R2-8-513.01 while purchasing Service Credit by an Irrevocable PDA and requests return of retirement contributions pursuant to A.R.S. § 38-740, the ASRS shall return any principal payments made for the purchase of Service Credit including interest earned on those principal payments at the interest rate specified in R2-8-118(A), column 3.
- B. If an Eligible Member dies while purchasing Service Credit, the ASRS shall credit the Eligible Member's account with:
  - 1. The Service Credit for which the ASRS received payment pursuant to a PDA before the Eligible Member's death;
  - 2. The principal payments made by the Eligible Member; and
  - 3. Interest earned on payment through the date of distribution at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).
- C. If an Eligible Member dies while purchasing Service Credit, the ASRS shall not permit the survivor or an estate to purchase the remaining balance.
- D. The ASRS shall not transfer, disburse, or refund the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.
- E. The ASRS shall not credit a member's account with the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-521. Adjustment of Errors**

- A. If the ASRS determines an error has been made in the information provided by the member or in the calculations made by the ASRS, the ASRS shall make an adjustment to the member's account and return ineligible payments, if any.
- B. The ASRS shall notify the member in writing of any adjustments.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING****R2-8-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
2. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
3. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
4. "Substantive policy statement" means the same as in A.R.S. § 41-1001(22).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

**R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements**

Except on a state holiday, a person may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-603. Petition for Rulemaking**

- A. A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
  1. The name and current address of the person submitting the petition;
  2. An identification of the rule to be made or amended;
  3. The suggested language of the rule;
  4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
    - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
    - b. If applicable, statistical data with references to attached exhibits;
  5. The signature of the person submitting the petition; and
  6. The date the person signs the petition.
- B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the person within 60 days of receipt of the petition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement**

- A. A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the person alleges constitutes a rule shall include the following in the petition:
  1. The name and current address of the person submitting the petition,

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
  3. The signature of the person submitting the petition, and
  4. The date the person signs the petition.
- B.** The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C.** The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact**

- A.** A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the person submitting the objection;
  2. Identification of the rule;
  3. Either evidence that the actual economic, small business and consumer impact:
    - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
    - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
    - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  4. The signature of the person submitting the objection; and
  5. The date the person signs the objection.
- B.** The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-606. Oral Proceedings**

- A.** A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
  2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
  3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B.** The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, tran-

scripts, lists, speaker slips, and written comments received shall become part of the official record.

- C.** A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
  2. Provide a Request to Present Oral Comment form that includes space for:
    - a. The name of the person submitting the Request to Present Oral Comment form,
    - b. The entity the person represents, if applicable, and
    - c. The rule on which the person wishes to comment or about which the person has a question;
  3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
  4. Explain the background and general content of the proposed rulemaking;
  5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
  6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D.** A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**R2-8-607. Petition for Delayed Effective Date**

- A.** A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
  2. Identification of the proposed rule;
  3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
  4. Reason why the public interest will not be harmed by the delayed effective date;
  5. Signature of the person submitting the petition; and
  6. Date the person signs the petition.
- B.** The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

**ARTICLE 7. CONTRIBUTIONS NOT WITHHELD****R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:
    - a. Whether the employee was covered under the Employer's 218 Agreement prior to July 24, 2014,
    - b. The number of hours the member worked for the Employer per pay period, and
    - c. The amount and type of compensation earned by the member within each pay period.
  3. "Eligible service" means employment with an Employer:
    - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
    - b. In which the member was Engaged to Work for an Employer.
  4. "Engaged to Work" means the same as in R2-8-1001.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-702. General Information**

- A. The Employer shall pay the Employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not the member pays the member's portion of the contributions.
- B. The person who initiates the claim that contributions were not withheld for Eligible Service has the burden to prove a contribution error was made.
- C. The ASRS shall not waive payment of contributions or interest owed under this Article.
- D. If a member is not able to establish eligibility for purchasing service credit pursuant to this Article, the member may be eligible to purchase service pursuant to A.R.S. § 38-743 and Article 5 of this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-703. Employer's Discovery of Error**

If an Employer determines that any amount of contributions have not been withheld for a member for a period of Eligible Service, the Employer shall notify the ASRS by submitting through the Employer's secure ASRS account a Verification of Contributions Not Withheld form with the following information:

1. The member's full name;
  2. The member's Social Security number;
  3. The range of dates that any contribution was not withheld;
  4. The member's position title during the date range listed in subsection (3);
5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
  6. The member's hire date;
  7. Whether the member was Engaged to Work for the Employer;
  8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
  9. The dated signature of the Employer's authorized agent certifying:
    - a. All the dates and salary information is correct;
    - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
    - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
    - d. Acknowledgement the member will receive an invoice for their contributions owed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4).  
Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-704. Member's Discovery of Error**

- A. If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:
  1. Notify the member's Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
  2. Submit to the ASRS a Contributions Not Withheld Request form through the member's secure ASRS account with the following:
    - a. The name of the Employer that should have remitted contributions;
    - b. The range of dates that any contribution was not withheld;
    - c. The member's position title during the date range listed in subsection (b);
    - d. Whether the member was Engaged to Work for the Employer; and
    - e. Dated signature of the member certifying the member understands:
      - i. The ASRS will be providing the member's Social Security number to the Employer for verification; and
      - ii. If the member's Employer cannot verify this request, it is the member's responsibility to provide Documentation of Eligible Service.
- B. If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account, along with the information identified in R2-8-703.
- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

believes supports the allegation that contributions should have been withheld.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-705. ASRS' Discovery of Error**

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that all contributions have not been withheld for a member for a period of Eligible Service, the ASRS shall notify the Employer in writing and shall request the Employer submit through the Employer's secure ASRS account a Verification of Contributions Not Withheld form pursuant to R2-8-703.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-706. Determination of Contributions Not Withheld**

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B. Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
  1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
  2. The employee participates in:
    - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
    - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C. Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D. If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E. The ASRS shall provide to each, the Employer and the member, an invoice with the following:
  1. The amount of Eligible Service for which contributions were not withheld,
  2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
  3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,
  4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
  5. The dollar amount of contributions to be paid to the ASRS by the member.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-707. Submission of Payment**

- A. Within 90 days from the date on the statement identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within 90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- B. The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).
- C. If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D. A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-708. Expired****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

**R2-8-709. Repealed****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**ARTICLE 8. RECOVERY OF OVERPAYMENTS****R2-8-801. Definitions**

For purposes of this article, the following definitions apply, unless specified otherwise:

1. "DRO" means the same as in R2-8-120.
2. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
3. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
4. "LTD benefit" means the same as in R2-8-301

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

5. "Overpayment" means:
- Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
  - Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount**

- A.** The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
- Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9); and
  - Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9).
- B.** A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.
- C.** Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the estimated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.
- D.** If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).
- E.** Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:
- Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount, or
  - Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.
- F.** If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-803. Reimbursement of Overpayments**

- A.** Upon the ASRS discovering that it has made an overpayment to a member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B.** A person who reimburses the ASRS for an overpayment shall do so by remitting a check, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C.** If the ASRS is unable to collect the amount of an overpayment by reducing future payments to members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.
- D.** A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-804. Collection of Overpayments from Forfeiture**

- A.** Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).
- B.** The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:
- Pursue collection of any remaining overpayment amount pursuant to this Article; and
  - Distribute the remaining refund amount to the member pursuant to R2-8-115.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-805. Collection of Overpayments from Retirement Benefit**

- A.** Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B.** Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:
- If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than \$5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;
  - If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of any overpayment to no less than \$5.00;
  - If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity dis-

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

bursement plus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than \$5.00 and pursue collection pursuant to subsection (C).

- C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpayments which have not been reimbursed or collected pursuant to this Article:
1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.
  2. If the amount of the overpayment cannot be collected pursuant to subsection (C)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.
- D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-806. Collection of Overpayments from Survivor Benefit**

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS shall reduce the necessary person's amount of benefits pursuant to subsection (C).
- C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.
- D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.
- E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-807. Collection of Overpayments from LTD Benefit**

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any over-

payment the member received from the ASRS and has not reimbursed pursuant to this Section.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

**R2-8-808. Collection of Overpayments by the Attorney General**

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-809. Collection of Overpayments by the Arizona Department of Revenue**

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**R2-8-810. Collection of Overpayments by Garnishment or Levy**

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this article by garnishing wages and/or placing a levy on the appropriate person's bank account.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

**ARTICLE 9. COMPENSATION****R2-8-901. Definitions**

"Services rendered" means the duties which a member performs for an Employer as required by the member's employment with the Employer.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-902. Remitting Contributions**

Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer's secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this Section.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-903. Accrual of Credited Service**

- A. A member shall accrue service credits pursuant A.R.S. § 38-739 for each month in which the Employer's pay period ends

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902.

- B.** Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-904. Compensation from An Additional Employer**

- A.** For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:
1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;
  2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;
  3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and
  4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member's service year.
- B.** For purposes of calculating average monthly compensation according to A.R.S. § 38-711, compensation includes the pay identified in subsection (A).
- C.** Notwithstanding any other subsection, for a member whose membership began after December 31, 2009, compensation includes pay the member receives from an additional Employer if the member meets membership pursuant to A.R.S. § 38-711 with the additional Employer.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2). New Section made by final rulemaking at 27 A.A.R. 91, effective March 9, 2021 (Supp. 21-1).

**R2-8-905. Expired****Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

**ARTICLE 10. MEMBERSHIP****R2-8-1001. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 Agreement" means the same as in R2-8-701.
2. "218 Resolution" means written authorization for a potential Employer to provide Social Security and Medicare or Medicare-only coverage to employees under the provisions of § 218 of the Social Security Act.

3. "Acceptable Documentation" means the same as in R2-8-115.
4. "Designated Employer Administrator" means an individual designated by the Employer and who has authorized access to the Employer's secure ASRS account in order to fulfill the Employer's responsibilities.
5. "Engaged To Work" means the earlier of:
  - a. The date the employee begins rendering services for the Employer and the Employer intends the employee to work for at least 20 hours a week for at least 20 weeks in a fiscal year or;
  - b. The week an employee renders services to an Employer for at least 20 hours a week for at least 20 weeks in a fiscal year.
6. "Leasing An Employee From A Third Party" means the same as "Leased from a third party" in R2-8-116.
7. "State Social Security Administrator" means the ASRS staff designated by the Board to approve 218 Agreements.
8. "Week" means 12:00 a.m. on Sunday through 11:59 p.m. on the following Saturday.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1002. Employee Membership**

- A.** For purposes of active member eligibility, an employee of an Employer becomes a member of the ASRS pursuant to A.R.S. § 38-711(23) when the employee is Engaged To Work for the Employer.
- B.** If the Employer does not provide an accurate date for which an employee was Engaged To Work pursuant to subsection (A), the ASRS shall determine that an employee's membership effective date will be the member's hire date, if provided by the Employer and within 30 days of the first pay period end date after the hire date, for which the Employer was required to submit contributions.
- C.** If the Employer does not provide a hire date pursuant to subsection (B), the effective date is the first pay period end date of contributions received for that member.
- D.** Unless a member terminates employment or retires from the ASRS, for purposes of determining active member eligibility, a member will continue to be an active member for the remainder of a fiscal year in which the employee met the requirements to be an active member in the ASRS with that Employer pursuant to A.R.S. § 38-711.
- E.** Within 30 days of employment, an employee who is eligible for ASRS membership pursuant to A.R.S. § 38-711(23) shall create a secure ASRS account and submit to the ASRS through the employee's secure ASRS account the following information:
1. The Employee's full name;
  2. The Employee's Social Security number;
  3. The Employee's date of birth;
  4. The Employee's gender;
  5. The Employee's marital status;
  6. The Employee's primary phone number;
  7. The Employee's personal email address;
  8. The Employee's current mailing address; and
  9. The Employee's designated beneficiary.
- F.** Within 30 days of a change in the member's name, the member shall submit to the ASRS through the member's secure ASRS account a Change of Name form that contains:
1. The member's full name that is on file with the ASRS;
  2. The member's Social Security number;

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

3. The member's current mailing address;
  4. The member's date of birth;
  5. The member's personal email address;
  6. The member's primary phone number;
  7. The member's gender;
  8. The member's marital status;
  9. The member's retired, active, inactive, or LTD status with the ASRS;
  10. The member's new full name;
  11. The type of legal document establishing the member's new name;
  12. A copy of the legal document establishing the member's new name; and
  13. The member's dated signature.
- G.** Within 30 days of a change in the member's contact information, the member shall notify the ASRS of the change.
- H.** If an employee of an Employer meets the requirements of A.R.S. § 38-727(A)(8), the employee may elect to not participate in the ASRS.
- I.** Within 30 days after employment, an Employer whose employee is 65 years of age or older as of the date of employment and who has elected not to participate in the ASRS pursuant to subsection (H), shall submit to the ASRS through the Employer's secure ASRS account a 65+ Membership Waiver form that contains:
1. The employee's full name;
  2. The employee's Social Security number;
  3. The employee's current mailing address;
  4. The employee's date of birth;
  5. The employee's dated signature acknowledging the following statements:
    - a. The employee is electing to waive any rights to ASRS membership and the employee will not be eligible for any retirement, disability, or health insurance benefits offered by the ASRS;
    - b. The employee is not a member of the ASRS as of the date of employment; and
    - c. The employee understands that this election is irrevocable for the remainder of the employee's employment with that Employer and the time the employee works under this election is not eligible for purchase in the ASRS;
  6. The Employer's name;
  7. The date employee's employment began; and
  8. The name and dated signature of the Employer's representative.
- J.** A corrected and completed 65+ Membership Waiver form must be resubmitted to the ASRS pursuant to subsection (I) within 14 days of the date the ASRS notifies the employee that the 65+ Membership Waiver form is incorrect or incomplete.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1003. Charter School Employer Membership**

- A.** Pursuant to A.R.S. § 15-187(C), a charter school in Arizona is considered a political subdivision that is eligible to participate in the ASRS if the charter school is sponsored by:
1. A state university;
  2. A community college district;
  3. A group of community college districts;
  4. The state board of education; or
  5. The state board for charter schools.
- B.** In order to participate as an Employer in the ASRS, a charter school shall notify the ASRS in writing of the charter school's intent to join the ASRS and provide:

1. A copy of the current and active Charter Contract, including any amendments, which is approved by the entity sponsoring the charter school pursuant to subsection (A);
  2. Documentation showing the name and location of all schools authorized by the Charter Contract identified in subsection (B)(1); and
  3. Documentation showing the charter school board's approval to pursue ASRS membership and complete ASRS requirements for membership.
- C.** Upon receipt of the information contained in subsection (B), the ASRS shall determine if the charter school is eligible to participate in the ASRS. If the charter school is not eligible to participate in the ASRS, the ASRS shall send the charter school a notice of ineligibility. If the charter school is eligible to participate, the ASRS shall provide the charter school a Potential New Employer Letter.
- D.** In order to participate as an Employer in the ASRS, an eligible charter school shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
1. The current retirement plan or a statement signed by the designated authorized agent for the charter school acknowledging there is no current retirement plan.
  2. Two ASRS Agreements showing:
    - a. The legal name and current mailing address of the charter school as sponsored pursuant to subsection (A);
    - b. What amount of prior service the charter school shall purchase for employees pursuant to R2-8-1006;
    - c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
    - d. The name, title, email address, and telephone number of the designated authorized agent for the charter school;
    - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
    - f. The ASRS Agreement is binding and irrevocable;
    - g. The effective date of the ASRS Agreement;
    - h. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
    - i. The dated signature of the designated authorized agent for the charter school.
  3. Two ASRS Resolutions showing:
    - a. The legal name of the charter school as sponsored pursuant to subsection (A);
    - b. The charter school is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
    - c. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
    - d. The designated authorized agent for the charter school;
    - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- f. The dated and notarized signature of the designated authorized agent.
- 4. Two 218 Agreements either electing or declining coverage. If the charter school is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
- 5. Two 218 Resolutions, if the charter school is electing coverage pursuant to subsection (D)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- E. Upon receipt of Acceptable Documentation identified in subsection (D), the ASRS may approve the charter school's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (D) to the charter school.
- F. Any charter school that is established under the charter contract of a participating charter school shall participate in the ASRS.
- c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
- d. The name, title, email address, and telephone number of the designated authorized agent for the political subdivision or political subdivision entity;
- e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
- f. The ASRS Agreement is binding and irrevocable;
- g. The effective date of the ASRS Agreement;
- h. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
- i. The dated signature of the designated authorized agent for the political subdivision or political subdivision entity.
- 3. Two ASRS Resolutions showing:
  - a. The legal name of the political subdivision or political subdivision entity;
  - b. The political subdivision or political subdivision entity is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
  - c. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
  - d. The designated authorized agent for the political subdivision or political subdivision entity;
  - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
  - f. The dated and notarized signature of the designated authorized agent.
- 4. Two 218 Agreements either electing or declining coverage. If the political subdivision or political subdivision entity is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
- 5. Two 218 Resolutions, if the political subdivision or political subdivision entity is electing coverage pursuant to subsection (C)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- D. Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership**

- A. A political subdivision or political subdivision entity, other than a charter school, may be eligible to participate in the ASRS pursuant to A.R.S. §§ 38-711 and 38-729 if it notifies the ASRS in writing of the political subdivision's or political subdivision entity's intent to join the ASRS and provides to the ASRS:
  - 1. A copy of the current legal authority establishing the political subdivision or political subdivision entity;
  - 2. Documentation showing the name and location of the political subdivision or political subdivision entity; and
  - 3. Documentation showing the political subdivision or political subdivision entity has taken the necessary legal action to be eligible to participate pursuant to A.R.S. § 38-729.
- B. Upon receipt of the information contained in subsection (C), the ASRS shall determine if the political subdivision or political subdivision entity is eligible to participate in the ASRS. If the political subdivision or political subdivision entity is not eligible to participate in the ASRS, the ASRS shall send the political subdivision or political subdivision entity a notice of ineligibility. If the political subdivision or political subdivision entity is eligible to participate, the ASRS shall provide the political subdivision or political subdivision entity a Potential New Employer Letter.
- C. In order to participate as an Employer in the ASRS, an eligible political subdivision or political subdivision entity shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
  - 1. The current retirement plan or a statement signed by the designated authorized agent for the political subdivision or political subdivision entity acknowledging there is no current retirement plan.
  - 2. Two ASRS Agreements showing:
    - a. The legal name and current mailing address of the political subdivision or political subdivision entity;
    - b. What amount of prior service the political subdivision or political subdivision entity shall purchase for employees pursuant to R2-8-1006;
- D. Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1005. Employer Reporting**

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- A. An Employer shall submit contribution information and contribution payments pursuant to A.R.S. § 38-735, through the Employer's secure ASRS account.
- B. Within 14 days of receiving the information contained in subsection R2-8-1002(E)(1) through (E)(3), the Employer shall:
1. Verify the information the employee provided;
  2. Confirm the employee meets membership requirements pursuant to A.R.S. § 38-711; and
  3. Submit the verified information to the ASRS through the Employer's secure ASRS account.
- C. For an Employer whose employee elects to participate in an Optional Retirement Plan in lieu of the ASRS pursuant to A.R.S. §15-1628, within 30 days of electing to participate in an Optional Retirement Plan, the Employer shall submit to the ASRS through the Employer's secure ASRS account the:
1. Employee's full name;
  2. Employee's Social Security number;
  3. Date of the employee's employment; and
  4. Date of the employee's Optional Retirement Plan election.
- D. For an Employer who has submitted information pursuant to subsection (C), within 30 days of that employee terminating employment with that Employer, the Employer shall notify the ASRS through the Employer's secure ASRS account of the employee's termination date.
- E. Within 14 days before the effective date of joining the ASRS, an Employer shall submit an initial online authorization and designation form in writing to the ASRS with the following information:
1. The Employer's name;
  2. The following information for the person authorized by the Employer to approve the Employer's Designated Employer Administrator:
    - a. The person's full name;
    - b. The person's title;
    - c. The person's phone number;
    - d. The person's email address;
    - e. The person's dated signature affirming that person has the authority to approve the Employer's Designated Employer Administrator;
  3. The full name of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  4. The title of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  5. The phone number of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  6. The email address of the individual the Employer is designating as the Employer's Designated Employer Administrator;
  7. The dated signature of the individual the Employer is designating as the Employer's Designated Employer Administrator.
- F. An Employer's Designated Employer Administrator shall establish a new Employer's Designated Employer Administrator as needed through the Employer's secure ASRS account.
- G. Within 30 days of an Employer no longer having an Employer's Designated Employer Administrator, the Employer shall submit in writing an initial online authorization and designation form pursuant to subsection (E).
- H. Within 30 days of change in the Employer's address, the Employer shall notify the ASRS of the change through the Employer's secure ASRS account.
- I. Within 10 days of any change in the name or ownership of the Employer, the Employer shall provide written notice of the change to the ASRS through the Employer's secure ASRS account by providing the Employer's previous account information and the changes to that information.
- J. Within 30 days of any change in the character of an Employer's organizational structure, the Employer shall send to the ASRS through the Employer's secure ASRS account, written notice of the previous organizational structure and the effective changes to the Employer's organizational structure.
- K. Within 30 days of Leasing An Employee From A Third Party, an Employer shall submit the following information:
1. The employee's full name;
  2. The number of hours per week the employee works for the Employer;
  3. The title of the employee's position;
  4. A copy of the agreement showing the Employer Leasing An Employee From A Third Party; and
  5. Whether the employee is retired from the ASRS.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**R2-8-1006. Prior Service Purchase Cost for New Employers**

- A. Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B. The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service credit pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
1. The employee's full name;
  2. The employee's date of birth;
  3. The employee's Social Security number;
  4. The employee's current salary; and
  5. The date the employee began employment with the potential Employer.
- C. An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
1. Member's full name;
  2. Member's date of birth;
  3. Member's Social Security number;
  4. Member's date of employment;
  5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
  6. Member's current salary as of the effective date of joining the ASRS; and
  7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D. The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E. An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

F. If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

**ARTICLE 11. TRANSFER OF SERVICE CREDIT****R2-8-1101. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
  - a. Member's Current Years of Credited Service;
  - b. Member's age as of the date the Member submits to the ASRS a request to transfer service credit pursuant to this Article; and
  - c. Member's most recent annual compensation.
2. "Current years of credited service" means:
  - a. For Transfer In Service, the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid; and
  - b. For transferring service credit to the Other Retirement Plan, the amount of credited service a member has earned or purchased, but does not include service credit for which the member has not yet paid.
3. "Irrevocable PDA" means the same as in R2-8-501.
4. "Funded Actuarial Present Value" means the Actuarial Present Value reduced to the extent funded on market value basis as of the most recent actuarial evaluation of the ASRS.
5. "Member's accumulated contribution account balance" means the sum of all the member's retirement contributions and any principal payments made for:
  - a. The purchase of service credit;
  - b. Contributions not withheld; and
  - c. Previous transfers of service credit.
6. "Other retirement plan" means the state retirement plans specified in A.R.S. § 38-921, other than the ASRS, or a retirement plan of a charter city as specified in A.R.S. § 38-730.
7. "Other Retirement Plan's cost" means the amount determined by the ASRS pursuant to R2-8-1102(D).
8. "Other public service" means the same as in R2-8-501.
9. "Transfer in service" means credited service with the Other Retirement Plan that a member is eligible to transfer to the ASRS pursuant to A.R.S. §§ 38-730 and 38-921.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit**

- A. A member who is eligible to Transfer In Service credit, may request to transfer service credit by providing a Transfer In form to the ASRS with the following:
1. The name of the Other Retirement Plan;

2. The date the member either terminated employment with an employer of the Other Retirement Plan or ceased to participate in the Other Retirement Plan;
  3. The date the member began employment with the employer through which the member was participating in the Other Retirement Plan;
  4. The number of years the member participated in the Other Retirement Plan;
  5. Acknowledgement the member agrees that:
    - a. Knowingly making a false statement or falsifying or permitting falsification of any record of the ASRS with an intent to defraud ASRS is a Class 6 felony, pursuant to A.R.S. § 38-793; and
    - b. The Transfer In Service credit transaction is subject to audit and if any errors are discovered, the ASRS shall adjust a member's account, or if the member is already retired, adjustments to the member's account may affect the member's retirement benefit.
- B. Upon receipt of the information specified in subsection (A), the ASRS shall submit the information to the Other Retirement Plan and request:
1. The Other Retirement Plan's Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922;
  2. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
  3. The amount of service credit the member has accumulated in the Other Retirement Plan; and
  4. The start date and end date for the member's participation in the Other Retirement Plan.
- C. Upon receipt of the information specified in subsection (B), the ASRS shall calculate the Actuarial Present Value as specified in R2-8-506 necessary to transfer full service credit to the ASRS.
- D. The ASRS shall calculate the Other Retirement Plan's Cost as follows:
1. If the ASRS Actuarial Present Value is greater than the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
    - a. The Other Retirement Plan's Funded Actuarial Present Value; or
    - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
  2. If the ASRS Actuarial Present Value is less than or equal to the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
    - a. The ASRS Actuarial Present Value; or
    - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan.
- E. The ASRS shall compare the Other Retirement Plan's Cost to the ASRS Actuarial Present Value calculated pursuant to subsection (C) and:
1. If the Other Retirement Plan's Cost is less than the ASRS Actuarial Present Value, then the member may elect to transfer service credit to the ASRS and:
    - a. Pay the difference between the Other Retirement Plan's Cost and the ASRS Actuarial Present Value; or
    - b. Accept a proportionately reduced amount of service credit;
  2. If the Other Retirement Plan's Cost is greater than or equal to the ASRS Actuarial Present Value, then the member may elect to transfer the service to the ASRS pursuant to subsection (F).
- F. Upon completion of the comparison specified in subsections (D) and (E), the ASRS shall send the member a transfer in

## CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

invoice notifying the member of the member's options to complete the transfer of service credit through the member's secure ASRS account.

- G. The member may elect to complete a transfer of service credit pursuant to this Section by submitting the member's election by the election due date specified on the transfer in invoice.
- H. Upon receipt of the member's election to complete a transfer of service credit, the ASRS shall send the transfer in invoice to the Other Retirement Plan and the Other Retirement Plan shall make payment to the ASRS by submitting a check made payable to the ASRS for the Other Retirement Plan's Cost specified on the transfer in invoice by the payment due date specified on the transfer in invoice.
- I. If a member elects to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E), the member shall elect the method of payment by the payment due date specified on the transfer in invoice.
- J. A member may elect to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E) by any one or more methods specified in R2-8-512, R2-8-513, R2-8-514, or R2-8-519.
- K. For a member who elects to accept a proportionately reduced amount of service pursuant to subsection (E)(1)(b), the ASRS shall calculate the proportionately reduced amount of service credit based on the member's service credits in the Other Retirement Plan multiplied by the ratio of the Other Retirement Plan's Cost to the ASRS Actuarial Present Value.
- L. The member shall submit payment to transfer service credit pursuant to this Section by the payment due date specified on the transfer in invoice.
- M. If the member does not submit payment for the total difference in the calculations pursuant to R2-8-1102(E) by the payment due date specified on the transfer in invoice, the member may be eligible to purchase the remaining service credit as Other Public Service, and the member is not eligible to purchase the remaining service credit based on the cost specified in the transfer in invoice.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

**R2-8-1103. Transferring Service to Other Retirement Plans**

- A. Upon receipt of a request to transfer a member's service credit from the ASRS to the Other Retirement Plan, the ASRS shall calculate:
  1. The ASRS Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922; and
  2. The Member's Accumulated Contribution Account Balance in the ASRS.
- B. Upon completing the calculations specified in subsection (A), the ASRS shall submit the calculations and member information to the Other Retirement Plan with a due date for the Other Retirement Plan to submit a fund request to the ASRS pursuant to subsection (C).

- C. If a member elects to transfer service credit to the Other Retirement Plan, the member shall ensure that the Other Retirement Plan submits a fund request on the Other Retirement Plan's letterhead by the due date specified in subsection (B) to the ASRS with the following information:
  1. The member's full name;
  2. The last four digits of the member's Social Security number;
  3. The name of the Other Retirement Plan; and
  4. The Actuarial Present Value necessary to transfer full service credit to the Other Retirement Plan.
- D. Upon receipt of the information specified in subsection (C), the ASRS shall compare the calculations specified in subsection (A) to the Other Retirement Plan's Actuarial Present Value specified in subsection (C) and transfer funds as follows:
  1. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is greater than the ASRS Funded Actuarial Present Value specified in subsection (A), then the ASRS shall transfer the greater of:
    - a. The ASRS Funded Actuarial Present Value specified in subsection (A); or
    - b. The Member's Accumulated Contribution Account Balance in the ASRS.
  2. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is less than or equal to the ASRS Funded Actuarial Present Value, then the ASRS shall transfer the greater of:
    - a. The Other Retirement Plan's Actuarial Present Value specified in subsection (C); or
    - b. The Member's Accumulated Contribution Account Balance in the ASRS.
- E. Transferring service credit to the Other Retirement Plan pursuant to this Section constitutes a withdrawal from ASRS membership and results in a forfeiture of all other benefits under ASRS.
- F. Notwithstanding subsection (E), pursuant to A.R.S. § 38-750, a transferred employee who continues an Irrevocable PDA after transferring service credit to the Other Retirement Plan may be eligible to:
  1. Transfer service credit associated with the remaining balance of the Irrevocable PDA for which the transferred employee paid for the purchase of service credit plus interest at the Assumed Actuarial Investment Earnings Rate pursuant to A.R.S. § 38-922, not including any administrative interest charge the transferred employee paid pursuant to an Irrevocable PDA; or
  2. Receive a return of contributions plus interest as specified in R2-8-118(A), column 3, pursuant to A.R.S. § 38-740.

**Historical Note**

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

### 38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means:

(a) For members whose membership began on or before December 31, 2019, the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(i) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(ii) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(iii) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(iv) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(v) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

(b) For a member whose membership began on or after January 1, 2020, only gross wages paid to a member by the employer for services rendered to the employer during the period considered as credited service, including amounts reported as wages and tips and other compensation on the member's federal form W-2 wage and tax statement, including pretax deductions, except for the following:

- (i) Payments made for accrued leave that is not being used to replace regular work hours, whether paid in a lump sum or in installments.
  - (ii) Payments made on termination from employment, whether paid in a lump sum or in installments or as a bonus or an incentive for termination or retirement.
  - (iii) Employer-paid contributions that are made to, and any distributions from, plans, programs or arrangements qualified under section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.
  - (iv) Payments for allowances.
  - (v) Reimbursements for employee business expenses or employee personal expenses.
  - (vi) Employer-paid contributions for coverage under, or distributions from, an accident, health or life insurance plan, program or arrangement.
  - (vii) Payments made in lieu of any employer-paid insurance coverage.
  - (viii) Workers' compensation, unemployment compensation payments and disability payments.
  - (ix) Merit awards pursuant to section 38-613.
  - (x) Payments paid pursuant to a court order or settlement agreement to satisfy a claim even though the amount of the payment is based on previous salary or wage levels, except if the court order or settlement agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time.
  - (xi) Payments made in the form of goods or services in lieu of gross wages.
  - (xii) Any other payment that is not reported as wages and tips and other compensation on the member's federal W-2 wage and tax statement for actual services rendered.
  - (xiii) Payments in excess of the section 415 of the internal revenue code limits established in section 38-746.
  - (xiv) Payments for any other employment benefit.
  - (xv) Payments for which employer or employee contributions have not been paid.
8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.
9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.
10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.
18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.
19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.
20. "Late retirement" means retirement after normal retirement.
21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.
22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.
23. "Member":
- (a) Means any employee of an employer on the effective date.
  - (b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.
  - (c) Means any person receiving a benefit under ASRS.
  - (d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.
  - (e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.
  - (f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:
    - (i) Is not otherwise an employee of an employer.
    - (ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.
    - (iii) Performs services under the primary direction or control of the employer.
24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government-related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

#### 38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and any member under articles 2.1 and 7 of this chapter and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.
2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.
3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.
4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.
2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.
3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

**38-783. Retired members; dependents; health insurance; premium payment; separate account; definitions**

A. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the single coverage premium of any health and accident insurance for each retired member, contingent annuitant or member with a disability of ASRS if the member elects to participate in the coverage provided by ASRS or section 38-651.01 or elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer. A contingent annuitant must be receiving a monthly retirement benefit from ASRS in order to obtain any premium payment provided by this section. The board shall pay:

1. Up to \$150 per month for a member of ASRS who is not eligible for medicare if the retired member or member with a disability has ten or more years of credited service.
2. Up to \$100 per month for each member of ASRS who is eligible for medicare if the retired member or member with a disability has ten or more years of credited service.

B. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the family coverage premium of any health and accident insurance for a retired member, contingent

annuitant or member with a disability of ASRS who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. If a member of ASRS and the member's spouse are both either retired or have disabilities under ASRS and apply for family coverage, the member who elects family coverage is entitled to receive the payments under this section as if they were both applying under a single coverage premium unless the payment under this section for family coverage is greater. Payment under this subsection is in the following amounts:

1. Up to \$260 per month if the member of ASRS and one or more dependents are not eligible for medicare.

2. Up to \$170 per month if the member of ASRS and one or more dependents are eligible for medicare.

3. Up to \$215 per month if either:

(a) The member of ASRS is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The member of ASRS is eligible for medicare and one or more dependents are not eligible for medicare.

C. In addition each retired member, contingent annuitant or member with a disability of ASRS with less than ten years of credited service and a dependent of such a retired member, contingent annuitant or member with a disability who elects to participate in the coverage provided by ASRS or section 38-651.01 or who elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 9.0 to 9.9 years of credited service, ninety percent.

2. 8.0 to 8.9 years of credited service, eighty percent.

3. 7.0 to 7.9 years of credited service, seventy percent.

4. 6.0 to 6.9 years of credited service, sixty percent.

5. 5.0 to 5.9 years of credited service, fifty percent.

6. Those with less than five years of credited service do not qualify for the benefit.

D. The board shall not pay more than the amount prescribed in this section for a member of ASRS.

E. Notwithstanding subsections A, B and C of this section, for a member who retires on or after August 2, 2012, the board shall not make a payment under this section to a retired member, contingent annuitant or member with a disability who is enrolled in an employer's active employee group health and accident insurance program either as the insured or as a dependent, except that if the retired member, contingent annuitant or member with a disability is enrolled as a dependent and the premium paid to the employer's active employee group health and accident insurance program is

not subsidized by the employer, the retired member, contingent annuitant or member with a disability is entitled to receive the amount provided in subsection A of this section.

F. The board shall establish a separate account that consists of the benefits provided by this section. The board shall not use or divert any part of the corpus or income of the account for any purpose other than the provision of and the cost of administering the benefits under this section or the self-insurance program pursuant to section 38-782 unless the liabilities of ASRS to provide the benefits are satisfied. If the liabilities of ASRS to provide the benefits described in this section and section 38-782 are satisfied, the board shall return any amount remaining in the account to the employer.

G. Payment of the benefits provided by this section is subject to the following conditions:

1. The payment of the benefits is subordinate to the payment of retirement benefits payable by ASRS.
2. The total of contributions for the benefits and actual contributions for life insurance protection, if any, shall not exceed twenty-five percent of the total actual employer and employee contributions to ASRS, less contributions to fund past service credits, after the day the account is established.
3. The board shall deposit the benefits provided by this section in the account.
4. The contributions by the employer to the account shall be reasonable and ascertainable.

H. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 1 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced to the retiring member for life. The amount of the optional premium benefit payment shall be the actuarial equivalent of the premium benefit payment to which the retired member would otherwise be entitled. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board as follows:

- (a) If the retired member names a different contingent annuitant, the optional premium benefit payment shall be adjusted to the actuarial equivalent of the original premium benefit payment based on the age of the new contingent annuitant. The adjustment shall include all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the retired member's date of retirement. Payment of this adjusted premium benefit payment shall continue under the provisions of the optional premium benefit payment previously elected by the retired member. A retired member cannot name a different contingent annuitant if the retired member has at any time rescinded the optional form of health and accident insurance premium benefit payment.

- (b) If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall

continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

I. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 2 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced with payments for five, ten or fifteen years that are not dependent on the continued lifetime of the retired member but whose payments continue for the retired member's lifetime beyond the five, ten or fifteen year period. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board. If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

J. If, at the time of retirement, a retiring member does not elect to receive a reduced premium benefit payment pursuant to subsection H or I of this section, the retired member's contingent annuitant is not eligible at any time for the optional premium benefit payment.

K. If a member who is eligible for benefits pursuant to this section forfeits the member's interest in the account before the termination of ASRS, an amount equal to the amount of the forfeiture shall be applied as soon as possible to reduce employer contributions to fund the benefits provided by this section.

L. A contingent annuitant is not eligible for any premium benefit payment if the contingent annuitant was not enrolled in an eligible health and accident insurance plan at the time of the retired member's death or if the contingent annuitant is not the dependent beneficiary or insured surviving dependent as provided in section 38-782.

M. For the purposes of this section:

1. "Account" means the separate account established pursuant to subsection F of this section.
2. "Credited service" includes prior service.
3. "Prior service" means service for this state or a political subdivision of this state before membership in the defined contribution program administered by ASRS.
4. "Subsidized" means a portion of the total premium is paid by the employer, but does not necessarily mean a plan in which the employer uses blended rates to determine the total premium.

### 38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be

excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means:

(a) For members whose membership began on or before December 31, 2019, the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(i) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(ii) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(iii) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(iv) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(v) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

(b) For a member whose membership began on or after January 1, 2020, only gross wages paid to a member by the employer for services rendered to the employer during the period considered as credited service, including amounts reported as wages and tips and other compensation on the member's federal form W-2 wage and tax statement, including pretax deductions, except for the following:

(i) Payments made for accrued leave that is not being used to replace regular work hours, whether paid in a lump sum or in installments.

(ii) Payments made on termination from employment, whether paid in a lump sum or in installments or as a bonus or an incentive for termination or retirement.

(iii) Employer-paid contributions that are made to, and any distributions from, plans, programs or arrangements qualified under section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.

(iv) Payments for allowances.

(v) Reimbursements for employee business expenses or employee personal expenses.

(vi) Employer-paid contributions for coverage under, or distributions from, an accident, health or life insurance plan, program or arrangement.

(vii) Payments made in lieu of any employer-paid insurance coverage.

(viii) Workers' compensation, unemployment compensation payments and disability payments.

(ix) Merit awards pursuant to section 38-613.

(x) Payments paid pursuant to a court order or settlement agreement to satisfy a claim even though the amount of the payment is based on previous salary or wage levels, except if the court order or settlement agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time.

(xi) Payments made in the form of goods or services in lieu of gross wages.

(xii) Any other payment that is not reported as wages and tips and other compensation on the member's federal W-2 wage and tax statement for actual services rendered.

(xiii) Payments in excess of the section 415 of the internal revenue code limits established in section 38-746.

(xiv) Payments for any other employment benefit.

(xv) Payments for which employer or employee contributions have not been paid.

8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.

9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.

10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the

date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.

18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.

19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.

20. "Late retirement" means retirement after normal retirement.

21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.

22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.

23. "Member":

(a) Means any employee of an employer on the effective date.

(b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

(c) Means any person receiving a benefit under ASRS.

(d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.

(e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.

(f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:

(i) Is not otherwise an employee of an employer.

(ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.

(iii) Performs services under the primary direction or control of the employer.

24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal

year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government-related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

41-1092.01. Office of administrative hearings; director; powers and duties; fund

A. An office of administrative hearings is established.

B. The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.

C. The director shall:

1. Serve as the chief administrative law judge of the office.

2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.

3. Subject to chapter 4, article 4 of this title, hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.

4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.

5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act. The director shall provide a copy of the report to the secretary of state.

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.

7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.

8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives and provide a copy of this report to the secretary of state by December 1 for the prior fiscal year:

(a) The number of administrative law judge decisions rejected or modified by agency heads.

(b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.

(c) By agency, the number and type of violations of section 41-1009.

10. Schedule hearings pursuant to section 41-1092.05 on the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.

D. The director shall not require legal representation to appear before an administrative law judge.

E. Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings. All other agencies shall contract for services and personnel of the office to conduct administrative hearings.

F. An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.

G. Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.

H. The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:

1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in

the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

I. If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges. These temporary administrative law judges are not employees of this state.

J. The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article. The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties. Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision. For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.

K. The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.

L. The office shall receive complaints against a county, a local government as defined in section 9-1401 or a video service provider as defined in section 9-1401 or 11-1901 and shall comply with the duties imposed on the office pursuant to title 9, chapter 13 for complaints involving local governments and title 11, chapter 14 for complaints involving counties.

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.
8. The department of transportation, except as provided in title 28, chapter 30, article 2.
9. The department of economic security except as provided in section 46-458.

10. The department of revenue regarding:

(a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to either:

(a) Applications for issuance or renewal of a certificate and discipline of certificate holders and noncertificated persons pursuant to sections 15-203, 15-505, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

(b) The Arizona empowerment scholarship account program pursuant to title 15, chapter 19.

14. The board of fingerprinting.

15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.
2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

41-1092.04. Service of documents

Unless otherwise provided in this article, every notice or decision under this article shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the agency and every other party to the action to the party's last address of record with the agency. Each party shall inform the agency and the office of any change of address within five days of the change.

41-1092.05. Scheduling of hearings; prehearing conferences

A. Except as provided in subsections B and C, hearings for:

1. Appealable agency actions shall be held within sixty days after the notice of appeal is filed.
2. Contested cases shall be held within sixty days after the agency's request for a hearing.

B. Hearings for appealable agency actions of or contested cases with self-supporting regulatory boards that meet quarterly or less frequently shall be held at the next meeting of the board after the board receives the written decision of an administrative law judge or the issuance of the notice of hearing, except that:

1. If the decision of the administrative law judge is received or the notice of hearing is issued within thirty days before the board meets, the hearing shall be held at the following meeting of the board.
2. If good cause is shown, the hearing may be held at a later meeting of the board.

C. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.

D. The agency shall prepare and serve a notice of hearing on all parties to the appeal or contested case at least thirty days before the hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. After the initial notice and on application, a more definite and detailed statement shall be furnished.

E. Notwithstanding subsection D, a hearing shall be expedited as provided by law or upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal or contested case have actual notice of the hearing date. Any party to the appeal or contested case may file a motion with the director asserting the party's right to an expedited hearing. The right to an expedited hearing shall be listed on any abatement order. The Arizona health care cost containment system administration may file a motion with every member grievance and eligibility appeal that cites federal law and that requests that a hearing be set within thirty days after the motion is filed.

F. Prehearing conferences may be held to:

1. Clarify or limit procedural, legal or factual issues.
2. Consider amendments to any pleadings.
3. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.
4. Obtain stipulations or rulings regarding testimony, exhibits, facts or law.
5. Schedule deadlines, hearing dates and locations if not previously set.
6. Allow the parties opportunity to discuss settlement.

**41-1092.06. Appeals of agency actions and contested cases; informal settlement conferences; applicability**

A. If requested by the appellant of an appealable agency action or the respondent in a contested case, the agency shall hold an informal settlement conference within fifteen days after receiving the request. A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing. If an informal settlement conference is requested, the agency shall notify the office of the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F. The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.

B. If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference. The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.

**41-1092.07. Hearings**

A. A party to a contested case or appealable agency action may file a nonperemptory motion with the director to disqualify an office administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.

B. The parties to a contested case or appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.

C. The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The administrative law judge may administer oaths and affirmations to witnesses.

D. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative

evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

E. All hearings shall be recorded. The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the agency's expense. Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

F. Unless otherwise provided by law, the following apply:

1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.

2. Copies of documentary evidence may be received in the discretion of the administrative law judge. On request, parties shall be given an opportunity to compare the copy with the original.

3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.

4. On application of a party or the agency and for use as evidence, the administrative law judge may permit a deposition to be taken, in the manner and on the terms designated by the administrative law judge, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the administrative law judge if the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in court, unless otherwise provided by law or agency rule. Notwithstanding section 12-2212, subpoenas, depositions or other discovery shall not be permitted except as provided by this paragraph or subsection C of this section.

5. Informal disposition may be made by stipulation, agreed settlement, consent order or default.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

7. A final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Conclusions of law shall specifically address the agency's authority to make the decision consistent with section 41-1030.

G. Except as otherwise provided by law:

1. At a hearing on an agency's denial of a license or permit or a denial of an application or request for modification of a license or permit, the applicant has the burden of persuasion.

2. At a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.

3. At a hearing on an agency's imposition of fees or penalties or any agency compliance order, the agency has the burden of persuasion.

4. At a hearing held pursuant to chapter 23 or 24 of this title, the appellant or claimant has the burden of persuasion.

H. Subsection G of this section does not affect the law governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.

**41-1092.08. Final administrative decisions; review; exception**

A. The administrative law judge of the office shall issue a written decision within twenty days after the hearing is concluded. The written decision shall contain a concise explanation of the reasons supporting the decision, including the findings of fact and conclusions of law. The administrative law judge shall serve a copy of the decision on the agency. On request of the agency, the office shall also transmit to the agency the record of the hearing as described in section 12-904, except as provided in section 41-1092.01, subsection F.

B. Within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, the head of the agency, executive director, board or commission may review the decision and accept, reject or modify it. If the head of the agency, executive director, board or commission declines to review the administrative law judge's decision, the agency shall serve a copy of the decision on all parties. If the head of the agency, executive director, board or commission rejects or modifies the decision, the agency head, executive director, board or commission must file with the office, except as provided in section 41-1092.01, subsection F, and serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification of each finding of fact or conclusion of law. If there is a rejection or modification of a conclusion of law, the written justification shall be sent to the president of the senate and the speaker of the house of representatives.

C. A board or commission whose members are appointed by the governor may review the decision of the agency head, as provided by law, and make the final administrative decision.

D. Except as otherwise provided in this subsection, if the head of the agency, the executive director or a board or commission does not accept, reject or modify the administrative law judge's decision within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, as evidenced by receipt of such action by the office by the thirtieth day, the office shall certify the administrative law judge's decision as the final administrative decision. If the board or commission meets monthly or less frequently, if the office sends the administrative law judge's decision at least thirty days before the next meeting of the board or commission and if the board or commission does not accept, reject or modify the administrative law judge's decision at the next meeting of the board or commission, as evidenced by receipt of such action by the office within five days after the meeting, the office shall certify the administrative law judge's decision as the final administrative decision.

E. For the purposes of subsections B and D of this section, a copy of the administrative law judge's decision is sent on personal delivery of the decision or five days after the decision is mailed to the head of the agency, executive director, board or commission.

F. The decision of the agency head is the final administrative decision unless either:

1. The agency head, executive director, board or commission does not review the administrative law judge's decision pursuant to subsection B of this section or does not reject or modify the administrative law judge's decision as provided in subsection D of this section, in which case the administrative law judge's decision is the final administrative decision.

2. The decision of the agency head is subject to review pursuant to subsection C of this section.

G. If a board or commission whose members are appointed by the governor makes the final administrative decision as an administrative law judge or on review of the decision of the agency head, the decision is not subject to review by the head of the agency.

H. A party may appeal a final administrative decision pursuant to title 12, chapter 7, article 6, except as provided in section 41-1092.09, subsection B and except that if a party has not requested a hearing on receipt of a notice of appealable agency action pursuant to section 41-1092.03, the appealable agency action is not subject to judicial review.

I. This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

#### 41-1092.09. Rehearing or review

A. Except as provided in subsection B of this section:

1. A party may file a motion for rehearing or review within thirty days after service of the final administrative decision.

2. The opposing party may file a response to the motion for rehearing within fifteen days after the date the motion for rehearing is filed.

3. After a hearing has been held and a final administrative decision has been entered pursuant to section 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

B. A party to an appealable agency action of or contested case with a self-supporting regulatory board shall exhaust the party's administrative remedies by filing a motion for rehearing or review within thirty days after the service of the administrative decision that is subject to rehearing or review in order to be eligible for judicial review pursuant to title 12, chapter 7, article 6. The board shall notify the parties in the administrative decision that is subject to rehearing or review that a failure to file a motion for rehearing or review within thirty days after service of the decision has the effect of prohibiting the parties from seeking judicial review of the board's decision.

C. Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address.

D. Except as provided in this subsection, the agency head, executive director, board or commission shall rule on the motion within fifteen days after the response to the motion is filed or, if a response is not filed, within five days of the expiration of the response period. A self-supporting regulatory board shall rule on the motion within fifteen days after the response to the motion is filed or at the board's next meeting after the motion is received, whichever is later.

#### 41-1092.10. Compulsory testimony; privilege against self-incrimination

A. A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person that would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege before the production of the testimony or papers.

B. If a person asserts the privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, the office or agency as provided in section 41-1092.01, subsection F may issue, with the prior written approval of the attorney general, a written order compelling the testimony or production of documents in proceedings and investigations before the office or agency as provided in section 41-1092.01, subsection F or apply to the appropriate court for such an order in other actions or proceedings.

C. Evidence produced pursuant to subsection B of this section is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing the person's private papers.

#### 41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal

A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

#### 41-1092.12. Private right of action; recovery of costs and fees; definitions

A. If an agency takes an action against a party that is arbitrary, capricious or not in accordance with law, the action is an appealable agency action if all of the following apply:

1. Within ten days after the action that is arbitrary, capricious or not in accordance with law, the party notifies the director of the agency in writing of the party's intent to file a claim pursuant to this section. This notice shall include a description of the action the party claims to be arbitrary,

capricious or not in accordance with law and reasons why the action is arbitrary, capricious or not in accordance with law.

2. The agency continues the action that is arbitrary, capricious or not in accordance with law more than ten days after the agency receives the notice.

3. The action is not excluded from the definition of appealable agency action as defined in section 41-1092.

B. This section only applies if an administrative remedy or an administrative or a judicial appeal of final agency action is not otherwise provided by law.

C. If the party prevails, the agency shall pay reasonable costs and fees to the party from any monies appropriated to the agency and available for that purpose or from other operating monies of the agency. If the agency fails or refuses to pay the award within fifteen days after the demand, and if no further review or appeal of the award is pending, the prevailing party may file a claim with the department of administration. The department of administration shall pay the claim within thirty days in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1, except that the agency is responsible for the total amount awarded and shall pay it from its operating monies. If the agency had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the agency's operating appropriation for the following fiscal year by the amount of the award and shall appropriate that amount to the department of administration as reimbursement for the loss.

D. If the administrative law judge determines that the appealable agency action is frivolous, the administrative law judge may require the party to pay reasonable costs and fees to the agency in responding to the appeal filed before the office of administrative hearings.

E. For the purposes of this section:

1. "Action against the party" means any of the following that results in the expenditure of costs and fees:

(a) A decision.

(b) An inspection.

(c) An investigation.

(d) The entry of private property.

2. "Agency" means the department of environmental quality established pursuant to title 49, chapter 1, article 1.

3. "Costs and fees" means reasonable attorney and professional fees.

4. "Party" means an individual, partnership, corporation, association and public or private organization at whom the action was directed and who has expended costs and fees as a result of the action against the party.

**C-5**

**DEPARTMENT OF HEALTH SERVICES (Expedited Rulemaking)**

Title 9, Chapter 10

**Amend:** R9-10-113, R9-10-230, R9-10-233, R9-10-407, R9-10-507, R9-10-1306



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 12, 2022

**SUBJECT: DEPARTMENT OF HEALTH SERVICES (Expedited Rulemaking)**  
Title 9, Chapter 10, Department of Health Services - Health Care Institutions:  
Licensing

**Amend:** R9-10-113, R9-10-230, R9-10-233, R9-10-407, R9-10-507, R9-10-1306

---

### Summary:

This expedited rulemaking from the Department of Health Services (Department) relates to rules in Title 9, Chapter 10, regarding tuberculosis screening in health care institutions. The Department indicates that it has requirements for tuberculosis screening in R9-10-113, which refers to guidelines from the federal Department of Health and Human Services, Centers for Disease Control and Prevention (CDC). The Department indicates that in 2019, the CDC updated its recommendations for tuberculosis screening to remove the requirement for annual screening if certain conditions are met. The Department indicates that health care institutions have requested that the Department change its rule to incorporate by reference the 2019 CDC recommendations.

The Department received approval to initiate this rulemaking on February 2, 2022 and final approval to submit it to the Council on March 8, 2022.

1. **Do the rules satisfy the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)?**

Yes. The Department indicates that the rulemaking qualifies for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(4) (“[a]dopts or incorporates by reference without material change federal statutes or regulations pursuant to section 41-1028, statutes of this state or rules of other agencies of this state”); (5) (“[r]educes or consolidates steps, procedures or processes in the rules”); and (6) (“[a]mends or repeals rules that are outdated, redundant or otherwise no longer necessary for the operation of state government”).

Upon review of the applicable statutes and the subject matter of the rulemaking, Council staff agrees that the rulemaking qualifies for expedited rulemaking pursuant to the bases the Department indicates.

2. **Are the rules legal, consistent with legislative intent, and within the agency’s statutory authority?**

Yes. The Department cites both general and specific statutory authority for these rules.

3. **Do the rules establish a new fee or contain a fee increase?**

No. This rulemaking does not establish a new fee or contain a fee increase.

4. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Department did not receive any comments in conducting this expedited rulemaking.

5. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

Between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking, the Department made minor, clarifying changes to the rules as described in Item 10 of the Preamble. These changes do not result in rules that are “substantially different” pursuant to A.R.S. § 41-1025.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Department indicates that federal law is not applicable to these rules.

7. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

The Department states that these rules do not require the issuance of a regulatory permit.

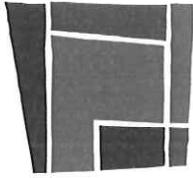
However, the Department indicates that A.R.S. § 36-407 prohibits a person from establishing, conducting, or maintaining “a health care institution or any class or subclass of health care institution unless that person holds a current and valid license issued by the [D]epartment specifying the class or subclass of health care institution the person is establishing, conducting or maintaining.” The Department states that such a license is specific to the licensee, class or subclass of the health care institution, facility location, and scope of services provided. Therefore, a general permit is not applicable and is not used.

8. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department did not review or rely on a study in conducting this expedited rulemaking.

9. **Conclusion**

In this expedited rulemaking, the Department seeks to update the rules relating to tuberculosis screening to incorporate by reference updated CDC recommendations. If approved, this rulemaking would be effective immediately upon the Department filing its Certificate of Approval and Notice of Final Expedited Rulemaking with the Secretary of State. Council staff recommends approval of this expedited rulemaking.



# ARIZONA DEPARTMENT OF HEALTH SERVICES

## POLICY & INTERGOVERNMENTAL AFFAIRS

March 8, 2022

**VIA EMAIL:** [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
Arizona Department of Administration  
100 N. 15th Avenue, Suite 305  
Phoenix, AZ 85007

RE: Department of Health Services, 9 A.A.C. 10, Expedited Rulemaking

Dear Ms. Sornsins:

1. The close of record date: March 7, 2022
2. Explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A):  
The rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of regulated persons. The rulemaking amends a rule with an outdated standard, as specified in A.R.S. § 41-1027(A)(6), and reduces the regulatory burden on the licensees of health care institutions by adopting new federal standards for tuberculosis screening, as specified in A.R.S. § 41-1027(A)(4), thus reducing or consolidating tuberculosis screening processes, as specified in A.R.S. § 41-1027(A)(5).
3. Whether the rulemaking relates to a five-year-review report and, if applicable, the date the report was approved by the Council:  
The rulemaking for 9 A.A.C. 10 does not relate to a five-year-review report.
4. A list of all items enclosed:
  - a. Notice of Final Expedited Rulemaking, including the Preamble, Table of Contents, and text of the rule
  - b. Statutory authority

The Department is requesting that the rules be heard at the Council meeting on May 3, 2022.

Douglas A. Ducey | Governor Don Herrington | Interim Director

I certify that the Preamble of this rulemaking discloses a reference to any study relevant to the rule that the Department reviewed and either did or did not rely on in its evaluation of or justification for the rule.

The Department's point of contact for questions about the rulemaking documents is Ruthann Smejkal at [Ruthann.Smejkal@azdhs.gov](mailto:Ruthann.Smejkal@azdhs.gov).

Sincerely,



Robert Lane  
Director's Designee

RL:rms

Enclosures

Douglas A. Ducey | Governor    Don Herrington | Interim Director

**NOTICE OF FINAL EXPEDITED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES**  
**HEALTH CARE INSTITUTIONS: LICENSING**

**PREAMBLE**

- 1. Article, Part, of Section Affected (as applicable) Rulemaking Action**

R9-10-113	Amend
R9-10-230	Amend
R9-10-233	Amend
R9-10-407	Amend
R9-10-507	Amend
R9-10-1306	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. §§ 36-132(A)(1) and 36-136(G)  
Implementing Statutes: A.R.S. §§ 36-405 and 36-406
  
- 3. The effective date of the rules:**

The rule is effective the day the Notice of Final Expedited Rulemaking is filed with the Office of the Secretary of State.
  
- 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 Proposed Expedited Rulemaking: 28 A.A.R. 464, February 25, 2022  
Notice of Docket Opening: 28 A.A.R. 471, February 25, 2022  
Notice of Termination of Rulemaking: 28 A.A.R. 404, February 18, 2022  
Notice of Proposed Expedited Rulemaking: 27 A.A.R. 1411, September 10, 2021  
Notice of Docket Opening: 27 A.A.R. 1233, August 13, 2021
  
- 5. The agency’s contact person who can answer questions about the expedited rulemaking:**

Name: Odette Colburn, Office Chief  
Address: Department of Health Services  
Public Health Licensing Services  
150 N. 18th Ave., Suite 450

Phoenix, AZ 85007

Telephone: (602) 364-2841

Fax: (602) 364-4808

E-mail: Odette.Colburn@azdhs.gov

or

Name: Robert Lane, Chief

Address: Arizona Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Ave., Suite 200  
Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Robert.Lane@azdhs.gov

**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:**

In order to ensure public health, safety, and welfare, Arizona Revised Statutes (A.R.S.) §§ 36-405 and 36-406 require the Arizona Department of Health Services (Department) to adopt rules establishing minimum standards and requirements for construction, modification, and licensure of health care institutions. The Department has adopted rules for licensing health care institutions in Arizona Administrative Code (A.A.C.) Title 9, Chapter 10. A.C.C. Title 9, Chapter 10, Article 1 contains the rules that apply to more than one class of health care institution. The Department has requirements related to tuberculosis screening in health care institutions in A.A.C. R9-10-113, citing to guidelines of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC). The CDC has recently updated the recommendations for tuberculosis screening in a manner that removed the requirement for annual screening if certain conditions are met. Health care institutions have requested that the Department change the rule to incorporate by reference the 2019 CDC recommendations. After receiving an exception from the rulemaking moratorium pursuant to Executive Order 2021-02, the Department began revising A.A.C. R9-10-113 to address these concerns and making related cross-reference changes in other Sections in the Chapter, but was unable to submit a Notice of Final Expedited Rulemaking to the Governor's Regulatory Review Council within the timeframe required in statute. The Department terminated the rulemaking, obtained another exception from the rulemaking moratorium pursuant to Executive Order 2022-01, and opened a new rulemaking. The changes to be made will not

increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated, but reduce a burden due to outdated requirements without compromising health and safety.

**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, changes were made in R9-10-113(A) and (B)(1) of the rulemaking to better clarify to which health care institutions and which individuals the rules pertain.

**11. Agency's summary of the public 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:**

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

The rules that are included in the rulemaking do not require the issuance of a regulatory permit. However, A.R.S. § 36-407 prohibits a person from establishing, conducting, or maintaining “a health care institution or any class or subclass of health care institution unless that person holds a current and valid license issued by the [D]epartment specifying the class or subclass of health care institution the person is establishing, conducting or

maintaining.” A health care institution license, issued under the Chapter, is specific to the licensee, class or subclass of health care institution, facility location, and scope of services provided. As such, a general permit is not applicable and is not used.

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

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:**

In R9-10-113(A)(1), the Department incorporates by reference Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019.

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

The rule was not previously made as an emergency rule.

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

**TITLE 9. HEALTH SERVICES**  
**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES**  
**HEALTH CARE INSTITUTIONS: LICENSING**

**ARTICLE 1. GENERAL**

Section

R9-10-113. Tuberculosis Screening

**ARTICLE 2. HOSPITALS**

Section

R9-10-230. Infection Control

R9-10-233. Environmental Standards

**ARTICLE 4. NURSING CARE INSTITUTIONS**

Section

R9-10-407. Admission

**ARTICLE 5. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH  
INTELLECTUAL DISABILITIES**

Section

R9-10-507. Admission

**ARTICLE 13. BEHAVIORAL HEALTH SPECIALIZED TRANSITIONAL FACILITY**

Section

R9-10-1306. Admission Requirements

ARTICLE 1. GENERAL

R9-10-113. Tuberculosis Screening

~~A. A health care institution's chief administrative officer shall ensure that the health care institution complies with one of the following if tuberculosis screening is required by this Chapter at the health care institution:~~

- ~~1. Screens for infectious tuberculosis according to subsection (B); or~~
- ~~2. Establishes, documents, and implements a tuberculosis infection control program that complies with the Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-care Settings, 2005, published by the U.S. Department of Health and Human Services, Atlanta, GA 30333 and available at <http://www.cdc.gov/mmwr/PDF/RR/rr5417.pdf>, incorporated by reference, on file with the Department, and including no future editions or amendments and includes:
  - ~~a. Conducting tuberculosis risk assessments, conducting tuberculosis screening testing, screening for signs or symptoms of tuberculosis, and providing training and education related to recognizing the signs and symptoms of tuberculosis; and~~
  - ~~b. Maintaining documentation of any:
    - ~~i. Tuberculosis risk assessment;~~
    - ~~ii. Tuberculosis screening test of an individual who is employed by the health care institution, provides volunteer services for the health care institution, or is admitted to the health care institution; and~~
    - ~~iii. Screening for signs or symptoms of tuberculosis of an individual who is employed by the health care institution, provides volunteer services for the health care institution, or is admitted to the health care institution.~~~~~~

~~B. For each individual required to be screened for infectious tuberculosis, a health care institution's chief administrative officer shall obtain from the individual:~~

- ~~1. On or before the date specified in the applicable Section of this Chapter, one of the following as evidence of freedom from infectious tuberculosis:
  - ~~a. Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the U.S. Centers for Disease Control and Prevention (CDC) administered within 12 months before the date the individual begins providing services at or on behalf of the health care institution or is admitted to the health care institution that includes the date and the type of tuberculosis screening test;~~~~

~~or~~

~~b. If the individual had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the individual is free from infectious tuberculosis signed by a medical practitioner dated within 12 months before the date the individual begins providing services at or on behalf of the health care institution or is admitted to the health care institution; and~~

~~2. Every 12 months after the date of the individual's most recent tuberculosis screening test or written statement, one of the following as evidence of freedom from infectious tuberculosis:~~

~~a. Documentation of a negative Mantoux skin test or other tuberculosis screening test recommended by the CDC administered to the individual within 30 calendar days before or after the anniversary date of the most recent tuberculosis screening test or written statement that includes the date and the type of tuberculosis screening test; or~~

~~b. If the individual has had a positive Mantoux skin test or other tuberculosis screening test, a written statement that the individual is free from infectious tuberculosis signed by a medical practitioner dated within 30 calendar days before or after the anniversary date of the most recent tuberculosis screening test or written statement.~~

A. If a health care institution is subject to the requirements of this Section, as specified in an Article in this Chapter, the health care institution's chief administrative officer shall ensure that the health care institution establishes, documents, and implements tuberculosis infection control activities that:

1. Are consistent with recommendations in Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019, published by the U.S. Department of Health and Human Services, Atlanta, GA 30333, available at <https://www.cdc.gov/mmwr/volumes/68/wr/mm6819a3.htm>, incorporated by reference, on file with the Department, and including no future editions or amendments; and

2. Include:

a. For each individual who is employed by the health care institution, provides volunteer services for the health care institution, or is admitted to the health care institution and who is subject to the requirements of this Section, baseline

screening, on or before the date specified in the applicable Article of this Chapter, that consists of:

- i. Assessing risks of prior exposure to infectious tuberculosis,
  - ii. Determining if the individual has signs or symptoms of tuberculosis, and
  - iii. Obtaining documentation of the individual's freedom from infectious tuberculosis according to subsection (B)(1);
- b. If an individual may have a latent tuberculosis infection, as defined in A.A.C. R9-6-1201:
- i. Referring the individual for assessment or treatment; and
  - ii. Annually obtaining documentation of the individual's freedom from symptoms of infectious tuberculosis, signed by a medical practitioner, occupation health provider, as defined in A.A.C. R9-6-801, or local health agency, as defined in A.A.C. R9-6-101;
- c. Annually providing training and education related to recognizing the signs and symptoms of tuberculosis to individuals employed by or providing volunteer services for the health care institution;
- d. Annually assessing the health care institution's risk of exposure to infectious tuberculosis;
- e. Reporting, as specified in A.A.C. R9-6-202, an individual who is suspected of exposure to infectious tuberculosis; and
- f. If an exposure to infectious tuberculosis occurs in the health care institution, coordinating and sharing information with the local health agency, as defined in A.A.C. R9-6-101, for identifying, locating, and investigating contacts, as defined in A.A.C. R9-6-101.

**B. A health care institution's chief administrative officer shall:**

1. For an individual for whom baseline screening and documentation of freedom from infectious tuberculosis is required by an Article in this Chapter, as specified in subsection (A)(2)(a), obtain one of the following as evidence of freedom from infectious tuberculosis:
  - a. Documentation of a negative Mantoux skin test or other tuberculosis screening test that:
    - i. Is recommended by the U.S. Centers for Disease Control and Prevention (CDC).



## ARTICLE 2. HOSPITALS

### R9-10-230. Infection Control

An administrator shall ensure that:

1. An infection control program that meets the requirements of this Section is established under the direction of an individual qualified according to policies and procedures;
2. An infection control program has a procedure for documenting:
  - a. The collection and analysis of infection control data,
  - b. The actions taken relating to infections and communicable diseases, and
  - c. Reports of communicable diseases to the governing authority and state and county health departments;
3. Infection control documents are maintained for at least 12 months after the date of the document;
4. Policies and procedures are established, documented, and implemented:
  - a. To prevent or minimize, identify, report, and investigate infections and communicable diseases that include:
    - i. Isolating a patient;
    - ii. Sterilizing equipment and supplies;
    - iii. Maintaining and storing sterile equipment and supplies;
    - iv. Using personal protective equipment such as gowns, masks, or face protection;
    - v. Disposing of biohazardous medical waste; and
    - vi. Moving and processing soiled linens and clothing;
  - b. That specify communicable diseases, medical conditions, or criteria that prevent an individual, a personnel member, or a medical staff member from:
    - i. Working in the hospital,
    - ii. Providing patient care, or
    - iii. Providing environmental services;
  - c. That establish criteria for determining whether a medical staff member is at an increased risk of exposure to infectious tuberculosis based on:
    - i. The level of risk in the area of the hospital premises where the medical staff member practices, and
    - ii. The work that the medical staff member performs; and

- d. That establish the frequency of tuberculosis screening for an individual determined to be at an increased risk of exposure;
5. Tuberculosis screening is performed:
- a. ~~As part of a tuberculosis infection control program that complies with the Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-care Settings according to R9-10-113(2); or~~
  - b. ~~Using a screening method described in R9-10-113(1), as follows:~~
    - i. ~~For a personnel member, on or before the date the personnel member begins providing services at or on behalf of the hospital and at least once every 12 months thereafter or more frequently if the personnel member is determined to be at an increased risk of exposure based on the criteria in subsection (4)(c);~~
    - ii. ~~Except as required in subsection (4)(d), for a medical staff member, at least once every 24 months; and~~
    - iii. ~~For a medical staff member at an increased risk of exposure based on the criteria in subsection (4)(c), at the frequency required by policies and procedures, but no less frequently than once every 24 months;~~
5. Tuberculosis screening is performed for a personnel member or medical staff member:
- a. On or before the date the personnel member or medical staff member begins providing services at or on behalf of the hospital, and
  - b. As part of a tuberculosis infection control program according to R9-10-113;
6. Soiled linen and clothing are:
- a. Collected in a manner to minimize or prevent contamination,
  - b. Bagged at the site of use, and
  - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
7. A personnel member washes hands or uses a hand disinfection product after each patient contact and after handling soiled linen, soiled clothing, or potentially infectious material;
8. An infection control committee is established according to policies and procedures and consists of:
- a. At least one medical staff member,
  - b. The individual directing the infection control program, and
  - c. Other personnel identified in policies and procedures; and

9. The infection control committee:
  - a. Develops a plan for preventing, tracking, and controlling infections;
  - b. Reviews the type and frequency of infections and develops recommendations for improvement;
  - c. Meets and provides a quarterly written report for inclusion by the quality management program; and
  - d. Maintains a record of actions taken and minutes of meetings.

**R9-10-233. Environmental Standards**

An administrator shall ensure that:

1. An individual providing environmental services who has the potential to transmit infectious tuberculosis to patients, as determined by the infection control risk assessment criteria in R9-10-230(4)(c), provides evidence of freedom from infectious tuberculosis:
  - a. ~~Using a screening method described in R9-10-113(1), on~~ On or before the date the individual begins providing environmental services at or on behalf of the hospital, ~~and at least once every 12 months thereafter; or~~
  - b. According to ~~R9-10-113(2)~~ R9-10-113;
2. The hospital premises and equipment are:
  - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control infection or illness; and
  - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury;
3. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
4. The hospital maintains a tobacco smoke-free environment;
5. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14, and policies and procedures;
6. Equipment used to provide hospital services is:
  - a. Maintained in working order;
  - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
  - c. Used according to the manufacturer's recommendations; and

7. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair.

## ARTICLE 4. NURSING CARE INSTITUTIONS

### R9-10-407. Admission

An administrator shall ensure that:

1. A resident is admitted only on a physician's order;
2. The physician's admitting order includes the nursing care institution services required to meet the immediate needs of a resident, such as medication and food services;
3. At the time of a resident's admission, a registered nurse conducts or coordinates an initial assessment on a resident to ensure the resident's immediate needs for nursing care institution services are met;
4. A resident's needs do not exceed the medical services and nursing services available at the nursing care institution as established in the nursing care institution's scope of services;
5. Before or at the time of admission, a resident or the resident's representative:
  - a. Receives a documented agreement with the nursing care institution that includes rates and charges,
  - b. Is informed of third-party coverage for rates and charges,
  - c. Is informed of the nursing care institution's refund policy, and
  - d. Receives written information concerning the nursing care institution's policies and procedures related to a resident's health care directives;
6. Within 30 calendar days before admission or 10 working days after admission, a medical history and physical examination is completed on a resident by:
  - a. A physician, or
  - b. A physician assistant or a registered nurse practitioner designated by the attending physician;
7. Except as specified in subsection (8), a resident provides evidence of freedom from infectious tuberculosis:
  - a. Before or within seven calendar days after the resident's admission, and
  - b. As specified in R9-10-113;
8. A resident who transfers from a nursing care institution to another nursing care institution is not required to be rescreened for tuberculosis ~~or provide another written statement by a physician, physician assistant, or registered nurse practitioner as specified in R9-10-113(1)~~ R9-10-113 if:

- a. Fewer than 12 months have passed since the resident was screened for tuberculosis ~~or since the date of the written statement~~, and
  - b. The documentation of freedom from infectious tuberculosis required in subsection (7) accompanies the resident at the time of transfer; and
9. Compliance with the requirements in subsection (6) is documented in the resident's medical record.

**ARTICLE 5. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH  
INTELLECTUAL DISABILITIES**

**R9-10-507. Admission**

An administrator shall ensure that:

1. A resident is admitted only:
  - a. On a physician's order;
  - b. If the resident has a developmental disability or cognitive disability, as defined in A.R.S. § 36-551;
  - c. If the resident's placement evaluation indicates that the resident's needs can be met by the ICF/IID; and
  - d. Except when the resident's placement evaluation states that the resident would benefit from being part of a group that includes residents of different ages, developmental levels, or social needs, if the resident can be assigned to a room or unit within the ICF/IID with other residents of similar ages, developmental levels, or social needs;
2. The physician's admitting order or placement evaluation documentation includes the active treatment or other physical health services or behavioral care required to meet the immediate needs of a resident, such as habilitation services, medication, and food services;
3. At the time of a resident's admission, a registered nurse conducts or coordinates an initial assessment on a resident to determine the resident's acuity and ensure the resident's immediate needs are met;
4. A resident's needs do not exceed the medical services, rehabilitation services, and nursing services available at the ICF/IID as established in the ICF/IID's scope of services;
5. A resident is assigned to a unit in the ICF/IID based, as applicable, on the patient's:
  - a. Documented diagnosis,
  - b. Treatment needs,
  - c. Developmental level,
  - d. Social skills,
  - e. Verbal skills, and
  - f. Acuity;
6. A resident does not share any space, participate in any activity or treatment, or verbally or

physically interact with any other resident that, based on the other resident's documented diagnosis, treatment needs, developmental level, social skills, verbal skills, and personal history, may present a threat to the resident's health and safety;

7. Within 30 calendar days before admission or 10 working days after admission, a medical history and physical examination is completed on a resident by:
  - a. A physician, or
  - b. A physician assistant or a registered nurse practitioner designated by the attending physician;
8. Compliance with the requirements in subsection (7) is documented in the resident's medical record;
9. Except as specified in subsection (10), a resident provides evidence of freedom from infectious tuberculosis:
  - a. Before or within seven calendar days after the resident's admission, and
  - b. As specified in R9-10-113; and
10. A resident who transfers from an ICF/IID or nursing care institution to the ICF/IID is not required to be rescreened for tuberculosis ~~or provide another written statement by a physician, physician assistant, or registered nurse practitioner~~ as specified in R9-10-113 if:
  - a. Fewer than 12 months have passed since the resident was screened for tuberculosis ~~or since the date of the written statement~~, and
  - b. The documentation of freedom from infectious tuberculosis required in subsection (9) accompanies the resident at the time of transfer.

## ARTICLE 13. BEHAVIORAL HEALTH SPECIALIZED TRANSITIONAL FACILITY

### R9-10-1306. Admission Requirements

- A. An administrator shall ensure that, before a patient is admitted to the behavioral health specialized transitional facility, a court of competent jurisdiction has ordered the patient to be:
1. Detained under A.R.S. § 36-3705(B) or § 36-3713(B); or
  2. Committed under A.R.S. § 36-3707.
- B. An administrator shall ensure that, at the time a patient is admitted to the behavioral health specialized transitional facility:
1. The administrator receives a copy of the court order for the patient to be detained at or committed to the behavioral health specialized transitional facility,
  2. The patient's possessions are taken to the bedroom to which the patient has been assigned, and
  3. The patient is provided with a written list and verbal explanation of the patient's rights and responsibilities.
- C. Within seven calendar days after a patient is admitted to the behavioral health specialized transitional facility, a medical director shall ensure that:
1. A medical history is taken from and a physical examination performed on the patient;
  2. Except as specified in subsection (C)(3), a patient provides evidence of freedom from infectious tuberculosis as required in R9-10-113;
  3. A patient is not required to be ~~retested~~ rescreened for tuberculosis ~~or provide another written statement by a physician, physician assistant, or registered nurse practitioner as specified in R9-10-113(1)~~ R9-10-113 if:
    - a. Fewer than 12 months have passed since the patient was ~~tested~~ screened for tuberculosis ~~or since the date of the written statement~~, and
    - b. The documentation of freedom from infectious tuberculosis required in subsection (C)(2) accompanies the patient at the time of the patient's admission to the behavioral health specialized transitional facility; and
  4. An assessment for the patient is completed:
    - a. According to the behavioral health specialized transitional facility's policies and procedures;
    - b. That includes the patient's:

- i. Legal history, including criminal justice record;
  - ii. Behavioral health treatment history;
  - iii. Medical conditions and history; and
  - iv. Symptoms reported by the patient and referrals needed by the patient, if any;
- and
- c. That includes:
  - i. Recommendations for further assessment or examination of the patient's needs,
  - ii. The physical health services or ancillary services that will be provided to the patient until the patient's treatment plan is completed; and
  - iii. The signature of the personnel member conducting the assessment and the date signed.

## Statutory Authority for 9 A.A.C. 10

### **36-132. Department of health services: functions: contracts**

A. The department, in addition to other powers and duties vested in it by law, shall:

1. Protect the health of the people of the state.
2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.
3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of this state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with chapter 3 of this title and sections 36-693, 36-694 and 39-122.
4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.
5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.
6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.
7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.
8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of schoolchildren, including special fields such as the prevention of blindness and conservation of sight and hearing.
9. Encourage and aid in the coordination of local programs concerning nutrition of the people of this state.
10. Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association. The department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.
11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.
12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection I, paragraph 10.
13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.

14. Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug, and cosmetic act (52 Stat. 1040; 21 United States Code sections 1 through 905).

15. Recruit and train personnel for state, local and district health departments.

16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.

17. License and regulate health care institutions according to chapter 4 of this title.

18. Issue or direct the issuance of licenses and permits required by law.

19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:

(a) Screening in early pregnancy for detecting high-risk conditions.

(b) Comprehensive prenatal health care.

(c) Maternity, delivery and postpartum care.

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for persons with developmental disabilities. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end-stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

### **36-136. Powers and duties of director; compensation of personnel; rules; definitions**

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of this state.

6. Exercise general supervision over all matters relating to sanitation and health throughout this state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of this state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of this state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of this state, the director may inspect any person or property in transportation through this state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director, after consultation with the department of administration, may take all necessary steps to enhance the highest and best use of the state hospital property, including contracting with third parties to provide services, entering into short-term lease agreements with third parties to occupy or renovate existing buildings and entering into long-term lease agreements to develop the land and buildings. The director shall deposit any monies collected from contracts and lease agreements entered into pursuant to this subsection in the Arizona state hospital charitable trust fund established by section 36-218. At least thirty days before issuing a request for proposals pursuant to this subsection, the department of health services shall hold a public hearing to receive community and provider input regarding the highest and best use of the state hospital property related to the request for proposals. The department shall report to the joint committee on capital review on the terms, conditions and purpose of any lease or sublease agreement entered into pursuant to this subsection relating to state hospital lands or buildings or the disposition of real property pursuant to this subsection, including state hospital lands or buildings, and the fiscal impact on the department and any revenues generated by the agreement. Any lease or sublease agreement entered into pursuant to this subsection relating to state hospital lands or buildings or the disposition of real property pursuant to this subsection, including state hospital lands or buildings, must be reviewed by the joint committee on capital review.

D. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

E. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director of the department of health services.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. If in the director's opinion there is

cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

F. The compensation of all personnel shall be as determined pursuant to section 38-611.

G. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

H. Notwithstanding subsection I, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for not longer than eighteen months.

I. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fundraising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on-site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.

(g) A cottage food product that is not potentially hazardous or a time or temperature control for safety food and that is prepared in a kitchen of a private home for commercial purposes, including fruit jams and jellies, dry mixes made with ingredients from approved sources, honey, dry pasta and roasted nuts. Cottage food products must be

packaged at home with an attached label that clearly states the name and registration number of the food preparer, lists all the ingredients in the product and the product's production date and includes the following statement: "This product was produced in a home kitchen that may process common food allergens and is not subject to public health inspection." If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must complete a food handler training course from an accredited program and maintain active certification. The food preparer must register with an online registry established by the department pursuant to paragraph 13 of this subsection. The food preparer must display the preparer's certificate of registration when operating as a temporary food establishment. For the purposes of this subdivision, "not potentially hazardous" means cottage food products that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

(i) Produce in a packing or holding facility that is subject to the United States food and drug administration produce safety rule (21 Code of Federal Regulations part 112) as administered by the Arizona department of agriculture pursuant to title 3, chapter 3, article 4.1. For the purposes of this subdivision, "holding", "packing" and "produce" have the same meanings prescribed in section 3-525.

(j) Spirituous liquor produced on the premises licensed by the department of liquor licenses and control. This exemption includes both of the following:

(i) The area in which production and manufacturing of spirituous liquor occurs, as defined in an active basic permit on file with the United States alcohol and tobacco tax and trade bureau.

(ii) The area licensed by the department of liquor licenses and control as a microbrewery, farm winery or craft distiller that is open to the public and serves spirituous liquor and commercially prepackaged food, crackers or pretzels for consumption on the premises. A producer of spirituous liquor may not provide, allow or expose for common use any cup, glass or other receptacle used for drinking purposes. For the purposes of this item, "common use" means the use of a drinking receptacle for drinking purposes by or for more than one person without the receptacle being thoroughly cleansed and sanitized between consecutive uses by methods prescribed by or acceptable to the department.

5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for preserving or storing food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and

vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparing food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. Rules adopted pursuant to this paragraph do not apply to two or fewer recreational vehicles as defined in section 33-2102 that are not park models or park trailers, that are parked on owner-occupied residential property for less than sixty days and for which no rent or other compensation is paid. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare cottage food products for commercial purposes pursuant to paragraph 4 of this subsection. A registered food preparer shall renew the registration every three years and shall provide to the department updated registration information within thirty days after any change.

14. Prescribe an exclusion for fetal demise cases from the standardized survey known as "the hospital consumer assessment of healthcare providers and systems".

J. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

K. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health

services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

L. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

M. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

N. Until the department adopts exemptions by rule as required by subsection I, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection I of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

O. Until the department adopts exemptions by rule as required by subsection I, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection I of this section.

P. Until the department adopts an exclusion by rule as required by subsection I, paragraph 14 of this section, the standardized survey known as "the hospital consumer assessment of healthcare providers and systems" may not include patients who experience a fetal demise.

Q. Until the department adopts exemptions by rule as required by subsection I, paragraph 4, subdivision (j) of this section, spirituous liquor and commercially prepackaged food, crackers or pretzels that meet the requirements of subsection I, paragraph 4, subdivision (j) of this section are exempt from the rules prescribed in subsection I of this section.

R. For the purposes of this section:

1. "Cottage food product":

(a) Means a food that is not potentially hazardous or a time or temperature control for safety food as defined by the department in rule and that is prepared in a home kitchen by an individual who is registered with the department.

(b) Does not include foods that require refrigeration, perishable baked goods, salsas, sauces, fermented and pickled foods, meat, fish and shellfish products, beverages, acidified food products, nut butters or other reduced-oxygen packaged products.

2. "Fetal demise" means a fetal death that occurs or is confirmed in a licensed hospital. Fetal demise does not include an abortion as defined in section 36-2151.

### **36-405. Powers and duties of the director**

A. The director shall adopt rules to establish minimum standards and requirements for constructing, modifying and licensing health care institutions necessary to ensure the public health, safety and welfare. The standards and requirements shall relate to the construction, equipment, sanitation, staffing for medical, nursing and personal care services, and recordkeeping pertaining to administering medical, nursing, behavioral health and personal care services, in accordance with generally accepted practices of health care. The standards shall require that a physician who is licensed pursuant to title 32, chapter 13 or 17 medically discharge patients from surgery and shall allow an outpatient surgical center to require that either an anesthesia provider who is licensed pursuant to title 32, chapter 13, 15 or 17 or a physician who is licensed pursuant to title 32, chapter 13 or 17 remain present on the premises until all patients are discharged from the recovery room. Except as otherwise provided in this subsection, the director shall use the current standards adopted by the joint commission on accreditation of hospitals and the commission on accreditation of the American osteopathic association or those adopted by any

recognized accreditation organization approved by the department as guidelines in prescribing minimum standards and requirements under this section.

B. The director, by rule, may:

1. Classify and subclassify health care institutions according to character, size, range of services provided, medical or dental specialty offered, duration of care and standard of patient care required for the purposes of licensure. Classes of health care institutions may include hospitals, infirmaries, outpatient treatment centers, health screening services centers and residential care facilities. Whenever the director reasonably deems distinctions in rules and standards to be appropriate among different classes or subclasses of health care institutions, the director may make such distinctions.

2. Prescribe standards for determining a health care institution's substantial compliance with licensure requirements.

3. Prescribe the criteria for the licensure inspection process.

4. Prescribe standards for selecting health care-related demonstration projects.

5. Establish nonrefundable application and licensing fees for health care institutions, including a grace period and a fee for the late payment of licensing fees, and fees for architectural plans and specifications reviews.

6. Establish a process for the department to notify a licensee of the licensee's licensing fee due date.

7. Establish a process for a licensee to request a different licensing fee due date, including any limits on the number of requests by the licensee.

C. The director, by rule, shall adopt licensing provisions that facilitate the colocation and integration of outpatient treatment centers that provide medical, nursing and health-related services with behavioral health services consistent with article 3.1 of this chapter.

D. The director may adopt rules regarding the collection of data from health care institutions.

E. Ninety percent of the fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the health services licensing fund established by section 36-414 and ten percent of the fees collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

F. Subsection B, paragraph 5 of this section does not apply to a health care institution operated by a state agency pursuant to state or federal law or to adult foster care residential settings.

### **36-406. Powers and duties of the department**

In addition to its other powers and duties:

1. The department shall:

(a) Administer and enforce this chapter and the rules, regulations and standards adopted pursuant thereto.

(b) Review, and may approve, plans and specifications for construction or modification or additions to health care institutions regulated by this chapter.

(c) Have access to books, records, accounts and any other information of any health care institution reasonably necessary for the purposes of this chapter.

(d) Require as a condition of licensure that nursing care institutions and assisted living facilities make vaccinations for influenza and pneumonia available to residents on site on a yearly basis. The department shall prescribe the manner by which the institutions and facilities shall document compliance with this subdivision, including documenting residents who refuse to be immunized. The department shall not impose a violation on a licensee for not making a vaccination available if there is a shortage of that vaccination in this state as determined by the director.

2. The department may:

(a) Make or cause to be made inspections consistent with standard medical practice of every part of the premises of health care institutions which are subject to the provisions of this chapter as well as those which apply for or hold a license required by this chapter.

(b) Make studies and investigations of conditions and problems in health care institutions, or any class or subclass thereof, as they relate to compliance with this chapter and rules, regulations and standards adopted pursuant thereto.

(c) Develop manuals and guides relating to any of the several aspects of physical facilities and operations of health care institutions or any class or subclass thereof for distribution to the governing authorities of health care institutions and to the general public.

**DEPARTMENT OF HEALTH SERVICES (Expedited Rulemaking)**

Title 9, Chapter 16

**Amend:** R9-16-101, R9-16-102, R9-16-103, R9-16-104, R9-16-105, R9-16-107, R9-16-108,  
R9-16-109, R9-16-110, R9-16-111, R9-16-112, R9-16-113, R9-16-114, R9-16-115,  
R9-16-116



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 12, 2022

**SUBJECT: DEPARTMENT OF HEALTH SERVICES**  
Title 9, Chapter 16, Article 1, Licensing of Midwifery

**Amend:** R9-16-101, R9-16-102, R9-16-103, R9-16-104, R9-16-105, R9-16-107,  
R9-16-108, R9-16-109, R9-16-110, R9-16-111, R9-16-112, R9-16-113,  
R9-16-114, R9-16-115, R9-16-116

---

### **Summary:**

This expedited rulemaking from the Department of Health Services (Department) relates to rules in Title 9, Chapter 16, Article 1, regarding Licensing of Midwifery. In this expedited rulemaking, the Department seeks to implement a course of action proposed in the last Five Year Review Report (5YRR) for these rules, which the Council approved on July 7, 2021. In that 5YRR, the Department identified several issues with the rules' clarity, conciseness, understandability, and effectiveness.

The Department received approval to initiate this rulemaking on July 21, 2021 and final approval to submit it to the Council on March 17, 2022.

1. **Do the rules satisfy the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)?**

Yes. This rulemaking qualifies for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(6) and (7) because it is changing the rules to repeal obsolete requirements and implementing a course of action proposed in a 5YRR.

2. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The Department cites both general and specific statutory authority for the rules.

3. **Do the rules establish a new fee or contain a fee increase?**

No. This expedited rulemaking does not establish a new fee or contain a fee increase.

4. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. As the Department indicates in Item 11 of its Preamble, it received a set of written comments from the Arizona Association of Midwives. The Department adequately responded to the comments it received.

5. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. As the Department indicates in Item 10 of the Preamble, between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking, it made a minor, clarifying change to two rules. These changes do not result in rules that are "substantially different" pursuant to A.R.S. § 41-1025.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Department indicates that federal law does not apply to the rules for licensing midwives.

7. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

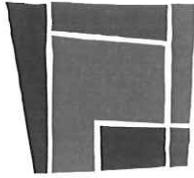
Yes. The Department indicates that a midwifery license qualifies as a general permit because the license specifies the individual and the services the individual is authorized to provide, but a licensed midwife is not limited to providing services in any one location.

**8. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department did not review or rely on a study in conducting this expedited rulemaking.

**9. Conclusion**

In this expedited rulemaking, the Department seeks to amend the rules relating to the licensing of midwifery to address issues it identified in the previous 5YRR for these rules. If approved, this expedited rulemaking would be effective immediately upon the Department filing its Certificate of Approval and Notice of Final Expedited Rulemaking with the Secretary of State. Council staff recommends approval of this expedited rulemaking.



# ARIZONA DEPARTMENT OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

March 17, 2022

**VIA EMAIL:** [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Nicole Sornsin, Chair

Governor's Regulatory Review Council

Arizona Department of Administration

100 N. 15th Avenue, Suite 305

Phoenix, AZ 85007

RE: Department of Health Services, 9 A.A.C. 16, Expedited Rulemaking

Dear Ms. Sornsin:

1. The close of record date: November 22, 2021
2. Explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A):  
The rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of regulated persons. In the rulemaking, the Department is changing the rules to repeal obsolete phase-in requirements, as specified in A.R.S. § 41-1027(A)(6), and making other changes described in a course of action stated in a five-year-review report, as specified in A.R.S. § 41-1027(A)(7). In addition, the Department is making related cross-reference changes in other Sections in the Chapter to further reduce the regulatory burden on regulated entities.
3. Whether the rulemaking relates to a five-year-review report and, if applicable, the date the report was approved by the Council:  
The rulemaking for 9 A.A.C. 16 relates to a five-year-review report approved by the Council on July 7, 2021.
4. A list of all items enclosed:
  - a. Notice of Final Expedited Rulemaking, including the Preamble, Table of Contents, and text of the rule
  - b. Statutory authority
  - c. Current rule

The Department is requesting that the rules be heard at the Council meeting on May 3, 2022.

Douglas A. Ducey | Governor Don Herrington | Interim Director

I certify that the Preamble of this rulemaking discloses a reference to any study relevant to the rule that the Department reviewed and either did or did not rely on in its evaluation of or justification for the rule.

The Department's point of contact for questions about the rulemaking documents is Ruthann Smejkal at [Ruthann.Smejkal@azdhs.gov](mailto:Ruthann.Smejkal@azdhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Lane', with a long horizontal flourish extending to the right.

Robert Lane  
Director's Designee

RL:rms

Enclosures

**NOTICE OF FINAL EXPEDITED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES**  
**OCCUPATIONAL LICENSING**

**PREAMBLE**

- | <b><u>1. Article, Part, of Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R9-16-101   | Amend                           |
| R9-16-102   | Amend                           |
| R9-16-103   | Amend                           |
| R9-16-104   | Amend                           |
| R9-16-105   | Amend                           |
| R9-16-107   | Amend                           |
| R9-16-108   | Amend                           |
| R9-16-109   | Amend                           |
| R9-16-110   | Amend                           |
| R9-16-111   | Amend                           |
| R9-16-112   | Amend                           |
| R9-16-113   | Amend                           |
| R9-16-114   | Amend                           |
| R9-16-115   | Amend                           |
| R9-16-116   | 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. §§ 36-132(A)(1) and 36-136(G)  
Implementing Statutes: A.R.S. §§ 36-752, 36-753, 36-754, 36-755, and 41-1073 through 41-1076
- 3. The effective date of the rules:**  
The rule is effective the day the Notice of Final Expedited Rulemaking is filed with the Office of the Secretary of State.
- 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 Docket Opening: 27 A.A.R. 1335, August 27, 2021

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

Name: Megan Whitby, Bureau Chief  
Address: Department of Health Services  
Public Health Licensing Services  
150 N. 18th Ave., Suite 400  
Phoenix, AZ 85007  
Telephone: (602) 364-3052  
Fax: (602) 364-2079  
E-mail: Megan.Whitby@azdhs.gov

or

Name: Robert Lane, Chief  
Address: Arizona Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Ave., Suite 200  
Phoenix, AZ 85007  
Telephone: (602) 542-1020  
Fax: (602) 364-1150  
E-mail: Robert.Lane@azdhs.gov

**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:**

There are currently four types of midwives who provide midwifery services: certified nurse-midwives, certified midwives, certified professional midwives, and direct-entry midwives. Certified nurse-midwives are licensed nurses, usually regulated under a state's Board of Nursing, and are allowed to provide midwifery services in all 50 states. They and certified midwives receive graduate-level training in midwifery programs accredited by the Accreditation Commission for Midwifery Education and must pass a national certification examination administered by the American Midwifery Certification Board. A.R.S. Title 36, Chapter 6, Article 7, contains the statutes for the licensing in Arizona of certified professional midwives (CMPs) and direct-entry midwives (DMs), who are not required to be nurses or have advanced degrees. The Arizona Department of Health Services (Department) has adopted rules pursuant to these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 16, Article 1, which specify the minimum standards for an individual to be licensed in midwifery in Arizona as a CMP or DM.

The CPM is the newest midwife credential, first issued in 1994 by the North American Registry of Midwives (NARM) to individuals who provide verification of the required experience and skills and pass the NARM Skills Assessment. DMs include those individuals who obtained, through demonstrated experience, skills, and knowledge, and have continuously held, a midwifery license in this state since 1999 but have not been certified by NARM. The current rules in 9 A.A.C. 16, Article 1, were last revised in an exempt rulemaking, effective July 1, 2013, pursuant to Laws 2012, Ch. 93. During the five-year review of these rules, the Department identified many issues that need to be addressed to improve the clarity, understandability, and effectiveness of the rules. After receiving an exception from the Governor’s rulemaking moratorium established by Executive Order 2020-02, the Department is revising the rules by expedited rulemaking to address these issues. The Department believes the rulemaking meets the criteria for expedited rulemaking since the changes to be made will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated, and reflect changes specified in a five-year-review report approved by the Governor’s Regulatory Review Council on July 7, 2021.

**7. A reference to any study relevant to the rules 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, the only change made to the rules was to replace “client file” in R9-16-109(B) and R9-16-110(B) with “client record” to be consistent with the usage in R9-16-115.

**11. Agency's summary of the public or stakeholder comments or objections made about the**

**rulemaking and the agency response to the comments:**

The Department received one set of written public or stakeholder comments about the rulemaking from the Arizona Association of Midwives (AAM). The comments made and the Department’s responses are provided below:

<b>Comment</b>	<b>Department’s Response</b>
<p>A statement was made that the AAM has made requests for rule revisions since 2015 because the rules reflect outdated practice standards. A statement was further made that the Department “has chosen on its own to open the rules and insert gendered language [], to insert practice guidelines that are not evidence-based best-practice, and to reduce a midwife’s scope of practice.”</p>	<p>Although the Department is aware that some midwives want to expand the practice of midwifery, as evidenced by their participation in previous Council meetings about the 2016 five-year-review report (5YRR) for the rules, the Department has received no written requests for rulemaking other than the comments addressed as part of the 2016 5YRR. Nor is this expedited rulemaking, which addresses issues identified in the 2021 5YRR, the forum for making such a request to make material changes to the rules. The Department is happy to discuss concerns with representatives of midwives, including the AAM, outside the bounds of the expedited rulemaking. The three concerns expressed are addressed separately below. The Department does not plan to make a change to these rules as a result of the comment.</p>
<p>A statement was made that the definition of “postpartum” is “unduly short.”</p>	<p>The definition of “midwife” in A.R.S § 36-751 states that a midwife “delivers a baby or provides health care related to pregnancy, labor, delivery and postpartum care of the mother and her infant.” By definition, “the postpartum period begins immediately after childbirth as the mother's body, including hormone levels and uterus size, returns to a non-pregnant state.” The term is commonly used to refer to the first six weeks following childbirth. Making a change to expand the time period considered as “postpartum” is outside of the bounds of this expedited rulemaking, which was undertaken to address issues identified in the 2021 5YRR. The Department does not plan to make a change to these rules as a result of the comment.</p>
<p>A statement was made that “changes were proposed without a meaningful stakeholder’s process.”</p>	<p>The Department extensively engages stakeholders during a regular rulemaking. Even for this expedited rulemaking, the Department posted draft rules and solicited stakeholder comments. Although many of the comments received were outside the scope of the expedited rulemaking, several changes were made from the draft rules to the proposed rules on the basis of these comments if they were within the scope of an expedited rulemaking. These include the clarification of using the more generic term of “Rh immunoglobulin” instead of the term “RhoGam” in R9-16-108 and clarifying in R9-16-108(J) that measures to be taken in an emergency should not just be discussed during active labor but that such measures should be taken if a situation requiring them arises. The Department does not plan to make a change to these rules as a result of the comment.</p>
<p>Related to the definition of postpartum ending at six weeks after delivery, a statement was made that “access to care after</p>	<p>The Department believes that, while a midwife may provide appropriate care for a client during the periods prescribed by statute for a midwife to provide such care, a midwife does not take the place of a primary care provider. The Department cannot expand the scope of a midwife’s practice</p>

<p>six weeks is essential to ending... maternal mortality disparities” and that “clients have professional access to their midwives more than six weeks after birth.”</p>	<p>during an expedited rulemaking but is willing to discuss any evidence for increasing the time period considered as postpartum in preparation for a regular rulemaking sometime in the future. The Department does not plan to make a change to these rules as a result of the comment.</p>
<p>Statements were made that “the rules arbitrarily cut off a client returning to care” and that “providers of every credential have been releasing clients back to the care of their licensed midwife after a condition is treated and recovered.” The contention is made that this results in a gap in care.</p>	<p>The current rules in R9-16-111(B) lump together conditions under which a midwife may not accept an individual as a client with conditions under which services by a midwife must be terminated. In the expedited rulemaking, the new rules just break out conditions that may originate during a pregnancy, such as the labor beginning before 36 weeks gestation, from those that would not, such as a previous uterine surgery or history of severe postpartum bleeding. Conditions that may be present before acceptance or develop while someone is a client are included in both the new R9-16-111(B) and (C). No changes were made to the conditions themselves, consistent with an expedited rulemaking. The Department has no control over a provider who abandons a patient who cannot return to her midwife for care. If such actions are being taken, the providers may need to be informed by the client or midwife that the midwife is prohibited from continuing care. The Department does not plan to make a change to these rules as a result of the comment.</p>
<p>A statement was made that the definition of what constitutes a postpartum hemorrhage, the description of what constitutes hypertension, and the method to determine gestational age are outdated practice standards.</p>	<p>While there may need to be discussion about changing some of these standards, any changes may not be done as part of this expedited rulemaking. In addition, some of the standards provided as examples are those relevant to an obstetrician, likely in a hospital setting or with resources not available to a midwife, and may not be appropriate for a midwife during a home birth. The Department does not plan to make a change to these rules as a result of the comment.</p>
<p>A statement was made that the rules make “midwifery care less accessible by using gendered language” - the term “pregnant woman.”</p>	<p>The current rules use the term “client” without definition and incorrectly apply it to someone who has not completed the required process to be accepted as a client. The current rules use “woman” 10 times and “pregnant woman” four times. The new rules continue to use the term “pregnant woman” in the six instances when someone has not yet been accepted as a client. The use of the term “pregnant woman” is consistent with the use of the term in A.R.S. Title 36 in which the word “pregnant” is found 20 times, 14 as “pregnant woman” and six times as “pregnant women.” Usage of the term is similar throughout the remaining Arizona statutes. The Department does not plan to make a change to these rules as a result of the comment.</p>
<p>A statement was made that the addition of the phrase “another condition that may increase the risk of harm to the woman or the woman’s fetus or newborn during pregnancy or labor” constitutes a decrease in a midwife’s scope of practice.</p>	<p>In R9-16-108(A) of the current rules, the word “healthy” is used related to the requirement that a midwife “shall provide midwifery services only to a healthy woman” and with the “delivery of a healthy newborn.” This term is somewhat vague and needed to be clarified. In the new rules, the Department has clarified that “healthy” means that the woman does not have any of the conditions specified in R9-16-111(B) through (E) or another condition that may increase the risk of harm to the woman or the woman’s fetus or newborn during pregnancy or labor, as determined</p>

	<p>through a physical assessment and review of the woman’s medical history and past pregnancies, and whose expected outcome of pregnancy is most likely to be the delivery of a newborn, with none of the conditions requiring transfer of care as specified in R9-16-111(J)(1), and an intact placenta. The Department does not plan to make a change to these rules as a result of the comment.</p>
--	---

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

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

The Department believes a midwifery license is a general permit in that the license specifies the individual and the services the individual is authorized to provide, but a licensed midwife is not limited to providing the services in any one location.

**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 rules for licensing these midwives.

**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:**

Not applicable

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING**

**ARTICLE 1. LICENSING OF MIDWIFERY**

Section

- R9-16-101. Definitions
- R9-16-102. Application for an Initial ~~Licensure~~ License
- R9-16-103. License Renewal
- R9-16-104. Administration
- R9-16-105. Continuing Education
- R9-16-107. Time-frames
- R9-16-108. Responsibilities of a Midwife; Scope of Practice
- R9-16-109. Informed Consent for Midwifery Services
- R9-16-110. Assertion to Decline Required Tests
- R9-16-111. Prohibited Practice; Transfer of Care
- R9-16-112. Required Consultation
- R9-16-113. Emergency Measures
- R9-16-114. Midwife Report after Termination of Midwifery Services
- R9-16-115. Client and Newborn Records
- R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures

## ARTICLE 1. LICENSING OF MIDWIFERY

### R9-16-101. Definitions

In addition to the definitions in A.R.S. § 36-751, the following definitions apply in this Article unless otherwise specified:

- ~~1.~~ “~~Abnormal presentation~~” means ~~the fetus is not in a head-down position with the crown of the head being the leading body part.~~
- ~~2.~~ “~~Addiction~~” means ~~a condition that results when a person ingests a substance that becomes compulsive and interferes with ordinary life responsibilities, such as work, relationships, or health.~~
- ~~3.1.~~ “Amniotic” means the fluid surrounding ~~the~~ a fetus while in the mother’s uterus.
- ~~4.2.~~ “Apgar score” means the number indicating a newborn’s physical condition, attained by rating selected body functions.
- ~~5.~~ “Aseptic” means ~~free of germs.~~
- ~~6.3.~~ “Breech” means a complete breech, a frank breech, or an incomplete breech.
- ~~7.~~ “~~Certified nurse midwife~~” means ~~an individual who meets the criteria in 4 A.A.C. 19, Article 5 and is certified by the Arizona State Board of Nursing.~~
- ~~8.~~ “~~Complete breech~~” means ~~that at the time of birth the buttocks of a fetus is pointing downward with both legs folded at the knees and the feet near the buttocks.~~
- ~~9.4.~~ “Calendar day” means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
- ~~5.~~ “Certified nurse midwife” means an individual who meets the criteria in 4 A.A.C. 19, Article 5, and is certified by the Arizona State Board of Nursing.
- ~~10.6.~~ “Cervix” means the narrow lower end of the uterus ~~which~~ that protrudes into the cavity of the vagina.
- ~~7.~~ “Client” means a pregnant woman accepted by a midwife for the provision of midwifery services from the midwife.
- ~~8.~~ “Complete breech” means that, at the time of birth, the buttocks of a fetus are pointing downward with both legs folded at the knees and the feet near the buttocks.
- ~~11.9.~~ “Consultation” means communication between a midwife and a physician or a midwife and a certified nurse midwife for the purpose of receiving a written or verbal

recommendation and implementing prospective advice regarding the care of a pregnant woman or the woman's ~~child~~ fetus or newborn.

~~12.~~ "Current photograph" means an image of an individual, taken no more than 60 calendar days before the submission of the individual's application, in a Department-approved electronic format capable of producing an image that:

- a. Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;
- b. Is 2 inches by 2 inches in size;
- e. Is in natural color;
- d. Is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline;
- e. Has a plain white or off-white background; and
- f. Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.

~~13.~~10. "Dilation" means opening of the cervix during the mechanism of labor to allow for passage of the fetus.

~~14.~~11. "Effacement" means the gradual thinning of the cervix during the mechanism of labor and indicates progress in labor.

~~15.~~12. "Emergency care plan" means the arrangements established by a midwife for a client's transfer of care in a situation in which the health or safety of the client or newborn ~~are~~ is determined to be at risk.

~~16.~~13. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.

~~17.~~14. "Episiotomy" means the cutting of the perineum, at the center, middle, or midline, in order to enlarge the vaginal opening for delivery.

~~18.~~15. "Fetus" means a child in utero from conception to birth.

~~19.~~16. "Frank breech" means that, at the time of birth, the buttocks of a fetus ~~is~~ are pointing downward with both legs folded flat up against the head.

~~20.~~17. "Gestation" means the length of time from conception to birth, as calculated from the first day of the last normal menstrual period.

~~21.~~ "Gravida" means the number of times the mother has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term.

~~22.~~18. "Incomplete breech" means that, at the time of birth, the buttocks of a fetus ~~is~~ are pointing downward with one leg folded at the knee with the foot near the buttocks.

- ~~23.~~ ~~“Infant” has the same meaning as in A.R.S. § 36-694.~~
- ~~24-19.~~ “Informed consent” means a document signed by a client, as provided in R9-16-109, agreeing to the provision of midwifery services.
- ~~25.~~ ~~“Intrapartum” means occurring from the onset of labor until after the delivery of the placenta.~~
- ~~26-20.~~ “Jurisprudence test” means an assessment of an individual’s knowledge of the:
- a. Laws of this state concerning the reporting of births, prenatal blood tests, and newborn screening; and
  - b. Rules pertaining to the practice of midwifery.
- ~~27-21.~~ “Ketones” means certain harmful chemical elements ~~which are~~ that, when present in the body in excessive amounts, ~~when there is a~~ results in compromised bodily function.
- ~~28.~~ ~~“Local registrar” means a person appointed by the state’s registrar of vital statistics for a registration district whose duty includes receipt of birth and death certificates for births and deaths occurring within that district for review, registration, and transmittal to the state office of vital records according to A.R.S. Title 36, Chapter 3.~~
- ~~29-22.~~ “Meconium” means the first bowel movement of the newborn, which is greenish black in color and tarry in consistency.
- ~~30-23.~~ “Midwifery services” means health care, provided by a midwife to a mother, related to pregnancy, labor, delivery, or postpartum care.
- ~~31-24.~~ “Newborn” has the same meaning as in A.R.S. § 36-694.
- ~~32.~~ ~~“Para” means the number of births that are greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth.~~
- ~~33.~~ ~~“Parity” means the number of newborns a woman has delivered.~~
- ~~34-25.~~ “Perineum” means the muscular region in the female between the vaginal opening and the anus.
- ~~35-26.~~ “Physician” means an allopathic, an osteopathic, or a naturopathic practitioner licensed according to A.R.S. Title 32, ~~Chapters~~ Chapter 13, 14, or 17.
- ~~36-27.~~ “Postpartum” means the six-week period following delivery of a newborn and placenta.
- ~~37-28.~~ “Prenatal” means the period from conception to the onset of labor and birth.
- ~~38.~~ ~~“Prenatal care” means the on-going risk assessments, clinical examinations, and prenatal, nutritional, and anticipatory guidance offered to a pregnant woman.~~
- ~~39-29.~~ “Prenatal visit” means each clinical examination of a pregnant woman for the purpose of monitoring the course of gestation and the overall health of the woman.

40. ~~“Primigravida” means a woman who is pregnant for the first time.~~
41. ~~“Primipara” means a woman who has given birth to her first newborn.~~
- 42-30. “Quickening” means the first perceptible movement of the fetus in the uterus, occurring usually in the 16th to the 20th week of gestation.
- 43-31. “Rh” means a blood antigen.
44. ~~“Serious mental illness” means a condition in an individual who is 18 years of age or older and who exhibits emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:~~
- a. ~~Is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation; and~~
  - b. ~~Impairs or substantially interferes with the capacity of the individual to remain in the community without supportive treatment or services of a long-term or indefinite duration.~~
45. ~~“Substance abuse” means the continued use of alcohol or other drugs in spite of negative consequences.~~
46. ~~“Shoulder dystocia” means the shoulders of the fetus are wedged in the mother’s pelvis in such a way that the fetus is unable to be born without emergency action.~~
- 47-32. “Transfer of care” means that a midwife refers the care of a client or newborn to an emergency medical services provider, a certified nurse midwife, a hospital, or a physician who then assumes responsibility for the direct care of the client or newborn.
- 48-33. “Working day” means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a statewide furlough day.

**R9-16-102. Application for an Initial Licensure License**

- A. An applicant for an initial license to practice midwifery shall submit:
- 1. An application in a format provided by the Department that contains:
    - a. The applicant’s name, address, telephone number, and e-mail address;
    - b. The applicant’s Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;
    - c. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
    - d. If the applicant was convicted of a felony or misdemeanor:
      - i. The date of the conviction,

- ii. The state or jurisdiction of the conviction,
- iii. An explanation of the crime of which the applicant was convicted, and
- iv. The disposition of the case;
- e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
- f. An attestation that information required as part of the application ~~has been submitted and~~ is true and accurate; and
- g. The applicant's signature and date of signature;
- ~~2.~~ ~~A copy of the applicant's:~~
  - a. ~~U.S. passport, current or expired;~~
  - b. ~~Birth certificate;~~
  - e. ~~Naturalization documents; or~~
  - d. ~~Documentation of legal resident alien status;~~
- 2. Documentation for the applicant that complies with A.R.S. § 41-1080;
- 3. Documentation that demonstrates the applicant is 21 years of age or older if the documentation submitted in subsection (A)(2) does not demonstrate that the applicant is 21 years of age or older;
- 4. Current documentation of completion of training in:
  - a. Adult basic cardiopulmonary resuscitation through a course recognized by the American Heart Association, and
  - b. Neonatal resuscitation through a course recognized by the American Academy of Pediatrics or American Heart Association;
- 5. Documentation of a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
- 6. Documentation that the applicant is certified by the North American Registry of Midwives as a Certified Professional Midwife;
- ~~7.~~ ~~A current photograph of the applicant;~~
- ~~8.7.~~ ~~A Except as provided in subsection (B), a non-refundable application fee of \$25; and~~
- ~~9.8.~~ ~~A non-refundable testing fee of \$100 for a jurisprudence test administered by the Department.~~
- B.** An applicant is not required to submit the fee in subsection (A)(7) or (E)(1) if the applicant, as part of the application in subsection (A), submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

**~~B.C.~~** The Department shall review an application for an initial license to practice midwifery according to R9-16-107 and Table 1.1.

**~~C.D.~~** If an applicant receives notification of eligibility to take the jurisprudence test, the applicant:

1. Shall take the jurisprudence test administered by the Department,
2. Shall provide proof of identity by a government-issued photographic identification card upon the request of the individual administering the jurisprudence test,
3. May take the jurisprudence test as many times as desired, within 180 calendar days after the date of the notification, without paying an additional testing fee, and
4. Shall score 80% or higher correct answers on the jurisprudence test to be eligible to receive an initial license to practice midwifery.

**~~D.E.~~** If an applicant scores 80% or higher correct answers on the jurisprudence test, the Department shall provide written notice to the applicant, within five working days after the date of the jurisprudence test, to submit to the Department:

1. ~~A~~ Except as provided in subsection (B), a licensing fee of \$25; and
2. The documentation required in subsection (A)(4) or (6), if the documentation of training required in subsection(A)(4) or certification required in subsection (A)(6) is not current.

**~~E.F.~~** The Department shall issue an initial license to practice midwifery within five working days after receiving the applicable documentation and licensing fee required in subsection ~~(D)~~ (E).

**~~F.G.~~** The Department shall provide to an applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A) and inform the applicant that the applicant may reapply under subsection (A) if the applicant does not:

1. Score 80% or higher correct answers on the jurisprudence test within 180 calendar days after the date of the notification of eligibility to take the jurisprudence test, or
2. Submit to the Department the applicable documentation and licensing fee required in subsection (D) within 120 calendar days after the date of the notification in subsection (D).

**R9-16-103. License Renewal**

**A.** At least 30 calendar days and no more than 60 calendar days before the expiration date of a midwifery license, a midwife shall submit to the Department:

1. An application for renewal of a midwifery license, in a format provided by the Department, that contains:
  - a. The midwife's name, address, telephone number, and e-mail address;
  - b. The midwife's license number;

- c. Whether the midwife has been convicted of a felony or a misdemeanor in this or another state or jurisdiction in the previous two years;
  - d. If the midwife was convicted of a felony or misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the midwife was convicted, and
    - iv. The disposition of the case;
  - e. Whether the midwife agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
  - f. An attestation that the midwife has completed the continuing education requirement in R9-16-105;
  - g. An attestation that the midwife is complying with the requirements in A.R.S. § 32-3211;
  - h. An attestation that information required as part of the application ~~has been submitted and~~ is true and accurate; and
  - i. The midwife's signature and date of signature;
2. Either:
- a. Documentation that the midwife is currently certified by the North American Registry of Midwives as a Certified Professional Midwife; or
  - b. For a midwife who has been continuously licensed as a midwife by the Department since 1999, a copy of both sides of documentation showing the completion of current training in:
    - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
    - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b); and

3. A non-refundable renewal fee of \$25.

**B.** The Department shall review an application for renewal of a license to practice midwifery according to R9-16-107 and Table 1.

**R9-16-104. Administration**

**A.** A midwife may submit a written request for the Department to:

- 1. Add the midwife's name, address, and telephone number to a list of licensed midwives on the Department's website; or

2. Remove the midwife's name, address, and telephone number from a list of licensed midwives on the Department's website.

**B.** A midwife shall:

1. Notify the Department in a format provided by the Department within five working days after:
  - a. A client has died while under the midwife's care,
  - b. A stillborn child has been delivered by the midwife, or
  - c. A newborn delivered by the midwife has died within the first ~~6~~ six weeks after birth; and
2. Provide a summary of the:
  - a. Circumstances leading up to the event, and
  - b. Actions taken by the midwife in response to the event.

**C.** A midwife shall:

1. Maintain documentation of:
  - a. Completion of current training in:
    - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
    - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b);
  - b. Except as provided in R9-16-103(A)(2)(b), current certification as a Certified Professional Midwife by the North American Registry of Midwives; and
  - c. The continuing education required in subsection R9-16-105 for at least the previous three years; and
2. Provide a copy of documentation required in subsection (C)(1) to the Department within ~~2~~ two working days after the Department's request.

**R9-16-105. Continuing Education**

During the term of a midwifery license, the midwife shall obtain at least 20 hours of continuing education ~~units~~ that:

1. Improve the midwife's ability to:
  - a. Provide services within the midwife's scope of practice,
  - b. Recognize and respond to situations outside the midwife's scope of practice, or
  - c. Provide guidance to other services a client may need; and
2. Have been approved as applicable to the practice of midwifery by the:

- a. American Nurses Association,
- b. American Congress of Obstetrics and Gynecologists,
- c. Midwives Alliance of North America,
- d. Arizona Medical Association,
- e. American College of Nurse Midwives,
- f. Midwifery Education Accreditation Council, or
- g. Another health professional organization.

**R9-16-107. Time-frames**

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of license granted by the Department is specified in Table 1.1. The applicant or midwife and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license granted by the Department is specified in Table 1.1.
  - 1. The administrative completeness review time-frame begins:
    - a. For an applicant submitting an application for an initial licensure license, when the Department receives the application packet required in R9-16-102(A); and
    - b. For a licensed midwife applying to renew a midwifery license, when the Department receives the application packet required in R9-16-103(A).
  - 2. If an application is complete, the Department shall provide to the applicant or midwife, during the administrative completeness review time-frame:
    - a. A notice of administrative completeness, or
    - b. A notice of eligibility to take the jurisprudence test or a license.
  - ~~2.3.~~ If an application is ~~incomplete~~ not complete, the Department shall provide a notice of deficiencies to the applicant or midwife describing the missing documentation or incomplete information.
    - a. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies.
    - b. An applicant or midwife shall submit to the Department the documentation or information listed in the notice of deficiencies in subsection (B)(3) within the

time specified in Table 1.1 for responding to a notice of deficiencies.

~~3.c.~~ If the applicant or midwife submits the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall provide a written notice of administrative completeness to the applicant or midwife.

~~4.d.~~ If the applicant or midwife does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall consider the application withdrawn.

~~5.~~ ~~When an application is complete the Department shall provide a notice of administrative completeness to the applicant or midwife.~~

~~6.~~ ~~If the Department issues a notice of eligibility to take the jurisprudence test or a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.~~

C. The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1.1 and begins on the date of the notice of administrative completeness.

1. If an application complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

2. If an application does not comply with the requirements in this Article or A.R.S. Title 36, Chapter 6, Article 7, the Department shall make one comprehensive written request for additional information, unless the applicant or midwife has agreed in writing to allow the Department to submit supplemental requests for information.

a. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested.

~~3.b.~~ An applicant or midwife shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information in subsection (C)(2) within the time specified in Table 1.1.

~~4.c.~~ If the applicant or midwife does not submit the additional information within the time specified in Table 1.1 or the additional information submitted by the applicant or midwife does not demonstrate compliance with this Article and

A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide to the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A).

~~5.d.~~ If the applicant or midwife submits the additional information within the time specified in Table 1.1 and the additional information submitted by the applicant or midwife demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

**R9-16-108. Responsibilities of a Midwife; Scope of Practice**

- A. A midwife shall provide midwifery services only to a ~~healthy~~ woman;
1. Who does not have any of the conditions specified in R9-16-111(B) through (E) or another condition that may increase the risk of harm to the woman or the woman's fetus or newborn during pregnancy or labor, as determined through a physical assessment and review of the woman's ~~obstetrical~~ medical history and past pregnancies; and
  2. ~~whose~~ Whose expected outcome of pregnancy is most likely to be the delivery of a ~~healthy~~ newborn, with none of the conditions requiring transfer of care as specified in R9-16-111(J)(1), and an intact placenta.
- B. Except as provided in R9-16-111(C) or (D), a midwife who is certified by the North American Registry of Midwives as a Certified Professional Midwife may accept a client for a vaginal delivery:
1. After prior Cesarean section, or
  2. Of a fetus in a complete breech or frank breech presentation.
- C. Before providing services to a ~~client~~ pregnant woman, a midwife shall:
1. Inform ~~a client~~ the pregnant woman, both orally and in writing, of:
    - a. The midwife's scope of practice, educational background, and credentials, as specified in R9-16-102(A)(4) and (6) as applicable;
    - b. If applicable to the ~~client's~~ pregnant woman's condition, the midwife's experience with:
      - i. Vaginal birth after prior Cesarean section delivery, or
      - ii. Delivery of a fetus in a complete breech or frank breech presentation;
    - c. The potential risks; adverse outcomes; neonatal or maternal complications, including death; and alternatives associated with an at-home delivery specific to the ~~client's~~ pregnant woman's condition, including the conditions described in subsection (C)(1)(b);

- d. The requirement for tests specified in subsections (I) and ~~(K)(4)(e)~~ (K)(3)(c), and the potential risks for declining a test, and, if a test is declined, the need for a written assertion of a ~~client's~~ pregnant woman's decision to decline testing;
  - e. The requirement for consultation for a condition specified in R9-16-112; and
  - f. The requirement for the transfer of care for a condition specified in R9-16-111; and
2. Obtain a written informed consent for midwifery services according to R9-16-109.
- D.** A midwife shall:
- 1. ~~establish~~ Establish an emergency care plan for ~~the a~~ a client that includes:
    - a. The name of the client;
    - b. The name of the midwife;
    - ~~c.~~ The name, address, and phone number of:
      - ~~a.i.~~ The hospital closest to the birthing location that provides obstetrical services, and
      - ~~b.ii.~~ An emergency medical services provider that provides service between the birthing location and the hospital identified in subsection ~~(D)(1)(a)~~ (D)(1)(c)(i);
    - d. The signature of the client and the date signed; and
    - e. The signature of the midwife and the date signed; and
  - 2. ~~The~~ For a delivery identified in subsection (B), ensure that the hospital identified in subsection ~~(D)(1)(a)~~ (D)(1)(c)(i) is within 25 miles of the birthing location ~~for a delivery identified in subsection (D);~~
  - ~~3. The signature of the client and the date signed; and~~
  - ~~4. The signature of the midwife and the date signed.~~
- E.** A midwife shall ensure the client receives a copy of the emergency care plan required in subsection (D).
- F.** A midwife shall implement the emergency care plan by immediately calling the emergency medical services provider identified in subsection ~~(D)(1)(b)~~ (D)(1)(c)(ii) for any condition that threatens the life of the client or the client's ~~child~~ fetus or newborn.
- G.** A midwife shall maintain all instruments used for delivery in ~~an aseptic~~ a germ-free manner and other birthing equipment and supplies in clean and good condition.
- H.** A midwife shall assess a client's physical condition in order to establish the client's continuing eligibility to receive midwifery services.

I. During the prenatal period, the midwife shall:

1. ~~Until October 1, 2013, schedule or arrange for~~ Except as provided in R9-16-110, ensure that the following tests are completed by for the client within 28 weeks gestation:
  - a. Blood type, including ABO and Rh, with antibody screen;
  - b. Urinalysis;
  - c. HIV;
  - d. Hepatitis B;
  - e. Hepatitis C;
  - f. Syphilis as required in A.R.S. § 36-693;
  - g. Rubella titer;
  - h. Chlamydia; and
  - i. Gonorrhea;
2. ~~Until October 1, 2013, schedule or arrange for~~ Except as provided in R9-16-110, ensure that the following tests are completed by for the client:
  - a. A blood glucose screening test for diabetes completed between 24 and 28 weeks of gestation;
  - b. A hematocrit and hemoglobin or complete blood count test completed between 28 and 36 weeks of gestation;
  - c. A vaginal-rectal swab for Group B Strep Streptococcus culture completed between 35 and 37 weeks of gestation;
  - d. At least one ultrasound and recommended follow-up testing to determine placental location and risk for placenta previa and placenta accrete; and
  - e. An ultrasound at 36-37 weeks gestation to confirm fetal presentation and estimated fetal weight for a breech pregnancy;
3. ~~As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(1) are completed by the client within 28 weeks gestation;~~
4. ~~As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(2) are completed by the client;~~
5. ~~3.~~ Conduct a prenatal visit at least once every ~~4~~ four weeks until the beginning of 28 weeks of gestation, once every ~~2~~ two weeks from the beginning of 28 weeks until the end of 36 weeks of gestation, and once a week after 36 weeks of gestation that includes:
  - a. Taking the client's weight; ~~urinalysis for protein, nitrites, glucose, and ketones;~~ blood pressure; and assessment of the lower extremities for swelling;

- b. Measurement of the fundal height and listening for fetal heart tones and, later in the pregnancy, feeling the abdomen to determine the position of the fetus;
- c. Documentation of fetal movement beginning at 28 weeks of gestation;
- d. ~~Document~~ Documentation of:
  - i. The occurrence of bleeding or invasive uterine procedures, and
  - ii. Any medications taken during the pregnancy that are specific to the needs of an Rh negative client;
- e. Referral of a client for lab tests or other assessments, if applicable, based upon examination or history; and
- f. Either:
  - i. Recommendation of administration of ~~the drug RhoGam~~ Rh immunoglobulin to an unsensitized Rh negative ~~mothers~~ client after 28 weeks, or any time bleeding or invasive uterine procedures are done; or
  - ii. ~~midwife~~ Midwife administration of ~~RhoGam~~ Rh immunoglobulin under a physician's written orders;

~~6.4.~~ Monitor fetal heart tones with a fetoscope;

~~5.~~ ~~and document~~ Document the client's report of first quickening, ~~between 18 and 20 weeks of gestation;~~

~~7.6.~~ Conduct weekly visits until signs of first quickening have occurred if first quickening has not been reported by 20 weeks of gestation;

~~8.7.~~ Initiate a consultation if first quickening has not occurred by the end of 22 weeks of gestation; ~~and~~

~~9.8.~~ Conduct a prenatal visit of the birthing location before the end of 35 weeks of gestation to ensure that the birthing environment is appropriate for birth and that communication is available to the hospital and emergency medical services provider identified in subsection ~~(D)(1)~~ (D)(1)(c)(i) and (ii); ~~and~~

9. Review with the client the circumstances when a transfer of care is required, as specified in R9-16-111.

**J.** During the intrapartum period from the onset of labor until after the delivery of the placenta, a midwife shall:

- 1. Determine if the client is in labor and the appropriate course of action to be taken by:
  - a. Assessing the interval, duration, intensity, location, and pattern of the contractions;

- b. Determining the condition of the membranes, including whether the membranes are intact or ruptured, and the amount and color of fluid;
  - c. Reviewing with the client the need for ~~an adequate~~ fluid intake related to subsection (J)(3)(d), relaxation, and activity, ~~and emergency management~~; and
  - d. Deciding whether to go to the client's home or other birthing location, remain in telephone contact, or arrange for transfer of care or consultation;
2. Contact the hospital identified in subsection ~~(D)(1)(a)~~ (D)(1)(c)(i) according to the policies and procedures established by the hospital regarding communication with midwives when the client begins labor and ends labor;
3. During labor:
- ~~a.~~ Assess Assess the condition of the client and fetus:
    - ~~i.~~ Upon Upon initial contact;
    - ~~ii.~~ Every Every half hour ~~in~~ during active labor until completely dilated; and
    - ~~iii.~~ Every Every 15 to 20 minutes during pushing, following rupture of the amniotic bag, or until the newborn is delivered, ~~including~~;
  - ~~a-b.~~ Initial Include in the assessments required in subsection (J)(3)(a):
    - ~~i.~~ A physical assessment and checking of the client's vital signs every ~~2~~ two to 4 four hours ~~of the client~~; and
    - ~~b-ii.~~ Assessing fetal heart tones every 30 minutes ~~in~~ during active first stage labor, and every 15 minutes during second stage labor, following rupture of the amniotic bag, or with any significant change in labor patterns;
  - c. Periodically ~~assessing~~ assess contractions, fetal presentation, dilation, effacement, and fetal position by vaginal examination;
  - d. ~~Maintaining~~ Maintain proper fluid balance for the client throughout labor as determined by urinary output and monitoring urine for presence of ketones; and
  - e. ~~Assisting~~ Assist In support and comfort measures to the client and family;
4. For deliveries described in subsection (B), during labor determine the progression of active labor:
- a. For ~~primiparas~~ a pregnant woman giving birth to her first newborn, ~~the progress of active labor~~ by monitoring whether dilation occurs at an average of ~~± one~~ one centimeter per hour until completely dilated, and a second stage does not exceed ~~± two~~ two hours, ~~if applicable~~;

- b. ~~Normal progress of active labor for multigravida~~ For a pregnant woman who has previously given birth to one or more newborns, by monitoring whether dilation occurs at an average of 1.5 to ~~2~~ two centimeters per hour until completely dilated, and a second stage does not exceed ~~± one~~ one hour, ~~if applicable~~; or
  - c. ~~The progress of active labor according~~ According to the Management Guidelines recommended by the American Congress of Obstetricians and Gynecologists;
5. After delivery of the newborn:
- a. Assess the newborn at ~~± one~~ one minute and ~~5 five~~ five minutes to determine the Apgar scores;
  - b. Physically assess the newborn for any abnormalities;
  - c. Inspect the client's perineum, vagina, and cervix for lacerations;
  - d. Deliver the placenta within 1 hour and assess the client for signs of placental separation from the inner wall of the uterus, resulting in vaginal or internal frank or occult bleeding; and
  - e. Examine the placenta for intactness and to determine the number of umbilical cord vessels; and
6. Recognize and respond to any situation requiring immediate intervention, including measures to be taken during an emergency, as specified in R9-16-113.

**K.** During the postpartum period, the midwife shall:

- 1. During the 2 hours after delivery of the placenta, provide the following care to the client:
  - a. Every 15 to 20 minutes for the first hour and every 30 minutes for the second hour:
    - i. Take vital signs of the client,
    - ii. Perform external massage of the uterus, and
    - iii. Evaluate bleeding;
  - b. Assist the client to urinate within 2 hours following the birth, ~~if applicable~~;
  - c. Evaluate the perineum, vagina, and cervix for tears, bleeding, or blood clots;
  - d. Assist with ~~maternal-newborn and infant bonding~~ maternal-newborn bonding to develop a relationship between the client and newborn;
  - e. Assist with initial breast feeding, instructing the client in the care of the breast, and reviewing potential danger signs, if appropriate;
  - f. Provide instruction to the family about:
    - i. ~~adequate fluid~~ Fluid and nutritional intake requirements to meet the



weight, cry, suck and feeding, fontanel, sleeping, and bowel and bladder function with documentation of meconium, and providing any recommendations for changes made to the family;

- c. Submitting blood obtained from a heel stick to the newborn to the state laboratory for screening according to A.R.S. § 36-694(B) and 9 A.A.C. 13, Article 2, unless a written refusal is obtained from the client and documented in the client's record and the newborn's record; and
- d. Recommending to the client that the client secure medical follow-up for her newborn.

**L.** A midwife shall ~~file a birth certificate with the local registrar~~ request the registration of the birth of a newborn according to A.A.C. R9-19-203 within seven calendar days after the birth of the newborn.

**M.** ~~Subsections (B), (C)(1)(b), (C)(1)(d) and (J)(2) and (4) are effective July 1, 2014.~~

**R9-16-109. Informed Consent for Midwifery Services**

**A.** A midwife shall obtain a written informed consent for midwifery services in a format provided by the Department that contains:

- 1. The midwife's:
  - a. Name,
  - b. Telephone number,
  - c. License number, and
  - d. E-mail address;
- 2. The client's:
  - a. Name;
  - b. Address;
  - c. Telephone number;
  - d. Date of birth; and
  - e. E-mail address, if applicable;
- 3. An attestation that the client was:
  - a. Provided the information required in R9-16-108(C)(1);
  - b. Informed of the emergency care plan as required in R9-16-108(D); and
  - c. Given an opportunity to have questions answered, have an understanding of the information provided, and choose to continue with midwifery services; and
- 4. The signatures of the client and midwife and date signed.

- B. A midwife shall ensure that the written informed consent for midwifery services is placed in the client ~~file~~ record.
- C. A midwife shall ensure that a copy of the written informed consent for midwifery services is provided to the:
  1. Client, and
  2. Department within five calendar days after a Department request.

~~D. This Section is effective October 1, 2013.~~

**R9-16-110. Assertion to Decline Required Tests**

- A. Except for R9-16-108(I)(1)(f), if the client declines a test required in ~~R9-16-108(I)(3) and (4)~~ R9-16-108(I)(1) or (2), a midwife shall obtain a written assertion of a client's decision to decline a required test in a format provided by the Department, that contains:
  1. The midwife's:
    - a. Name,
    - b. Telephone number,
    - c. License number, and
    - d. E-mail address;
  2. The client's:
    - a. Name;
    - b. Address;
    - c. Telephone number;
    - d. Date of birth; and
    - e. E-mail address, if applicable;
  3. The required test being declined by the client;
  4. Additional information as required by the Department;
  5. An attestation that the client:
    - a. Was provided the information as required in R9-16-108(C)(1)(d), and
    - b. Is declining testing; and
  6. The signatures of the client and midwife and date signed.
- B. A midwife shall ensure that the written assertion of the decision to decline a test is placed in the client ~~file~~ record.
- C. A midwife shall ensure that a copy of the written assertion of the decision to decline a test is provided to the:
  1. Client, and

2. Department within five calendar days after a Department request.

~~D. This Section is effective October 1, 2013.~~

**R9-16-111. Prohibited Practice; Transfer of Care**

A. A midwife shall not provide midwifery services in a location that has the potential to cause harm to the client or the client's ~~child~~ fetus or newborn.

B. A midwife shall not accept as a client for midwifery services ~~or continue midwifery services for a client~~ pregnant women who has ~~or develops~~ any of the following:

1. A previous surgery that involved:

a. An incision in the uterus, except as provided in R9-16-108(B)(1); or

b. A previous uterine surgery that enters the myometrium;

~~2. A history of severe postpartum bleeding, of unknown cause, which required transfusion;~~

~~3. Gestational age greater than 34 weeks with no prior prenatal assessments or clinical examinations;~~

~~2-4. Multiple fetuses;~~

~~3. Placenta previa or placenta accreta;~~

~~4. A history of severe postpartum bleeding, of unknown cause, which required transfusion;~~

~~5. A pelvis that will not safely allow a fetus to pass through during labor;~~

~~6. Placenta previa or placenta accreta;~~

~~5-7. Deep vein thrombosis or pulmonary embolism;~~

~~6-8. Uncontrolled gestational diabetes;~~

~~7-9. Insulin-dependent diabetes;~~

~~8-10. Hypertension;~~

~~9-11. Rh disease with positive titers;~~

~~10-12. Active:~~

a. Tuberculosis;<sub>2</sub>

b. Syphilis;<sub>2</sub>

e. Genital herpes at the onset of labor;

~~d-c.~~ Hepatitis until treated and recovered, ~~following which midwifery services may resume;~~ or

~~e-d.~~ Gonorrhea until treated and recovered, ~~following which midwifery services may resume;~~

~~11. Preeclampsia or eclampsia persisting after the second trimester;~~

~~12-13.~~ A blood pressure of 140/90 or an increase of 30 millimeters of Mercury systolic or 15

millimeters of Mercury diastolic over the client's lowest baseline blood pressure for two consecutive readings taken at least six hours apart;

- ~~13-14.~~ A persistent hemoglobin level below 10 grams ~~or a hematocrit below 30 during the third trimester;~~
- ~~14.~~ A pelvis that will not safely allow a baby to pass through during labor;
15. A ~~serious mental illness~~ condition related to emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:
  - a. Is severe and persistent, resulting in a long-term limitation of the client's capacity for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment, or recreation; and
  - b. Impairs or substantially interferes with the client's capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration; or
16. ~~Evidence~~ Indications of substance abuse the continued use of one of the following despite negative consequences, including six months prior to pregnancy, ~~to one of the following,~~ that is evident during an assessment of a client:
  - a. Alcohol,
  - b. Narcotics, or
  - c. Other drugs;.
- ~~17.~~ ~~Except as provided in R9-16-108(B)(2), a fetus with an abnormal presentation~~
- ~~18.~~ ~~Labor beginning before the beginning of 36 weeks gestation;~~
- ~~19.~~ ~~A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable;~~
- ~~20.~~ ~~Gestational age greater than 34 weeks with no prior prenatal care;~~
- ~~21.~~ ~~A gestation beyond 42 weeks;~~
- ~~22.~~ ~~Presence of ruptured membranes without onset of labor within 24 hours;~~
- ~~23.~~ ~~Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute;~~
- ~~24.~~ ~~Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones;~~
- ~~25.~~ ~~A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or~~
- ~~26.~~ ~~A non-bleeding placenta retained for more than 60 minutes.~~

C. A midwife shall not continue midwifery services for a client who is diagnosed with or develops any of the following:

1. Any condition specified in subsections (B)(4) through (16):
2. A hematocrit below 30 during the third trimester:
3. Except as provided in R9-16-108(B)(2), a fetus that is not in a head-down position with the crown of the head being the leading body part:
4. Labor beginning before the beginning of 36 weeks gestation:
5. A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable:
6. A gestation beyond 42 weeks:
7. Presence of ruptured membranes without onset of labor within 24 hours:
8. Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute:
9. Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones:
10. A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or
11. A non-bleeding placenta retained for more than 60 minutes.

**C.D.** A midwife shall not perform a vaginal delivery after prior Cesarean section for a client who:

1. Had:
  - a. More than one previous Cesarean section;
  - b. A previous Cesarean section:
    - i. With a classical, vertical, or unknown uterine incision;
    - ii. Within 18 months before the expected delivery;
    - iii. With complications, including uterine infection; or
    - iv. Due to failure to progress as a result of cephalopelvic insufficiency; or
  - c. Complications during a previous vaginal delivery after a Cesarean section; or
2. Has a fetus:
  - a. With fetal anomalies, confirmed by an ultrasound; or
  - b. In a breech presentation.

**D.E.** A midwife shall not perform a vaginal delivery of a fetus in a breech presentation for a client who:

1. Had a previous:
  - a. Unsuccessful vaginal delivery or other demonstration of an inadequate maternal pelvis, or
  - b. Cesarean section; or
2. Has a fetus:

- a. With fetal anomalies, confirmed by an ultrasound;
- b. With an estimated fetal weight less than 2500 grams or more than 3800 grams; or
- c. In an incomplete breech presentation.

**E.F.** If the client has any of the conditions in subsections ~~(B)~~ (C) through ~~(D)~~ (E), a midwife shall:

- 1. Document the condition in the client record, and
- 2. Initiate transfer of care.

**F.G.** A midwife shall not perform any operative procedures except as provided in R9-16-113.

**G.H.** A midwife shall not:

- 1. Use any artificial, forcible, or mechanical means to assist birth; or
- 2. Attempt to correct fetal presentations by external or internal movement of the fetus.

**H.I.** A midwife shall not administer drugs or medications except as provided in ~~R9-16-108(I)(5)(f)~~, ~~(K)(1)(g)~~, ~~(K)(2)(e)~~ R9-16-108(I)(3)(f), (K)(1)(g), or (K)(2)(c), or R9-16-113.

**I.J.** Except as provided in R9-16-113, a midwife shall:

- 1. Discontinue midwifery services and transfer care of a newborn in which any of the following conditions are present:
  - a. Birth weight less than 2000 grams;
  - b. Pale, blue, or gray color after 10 minutes;
  - c. ~~Excessive edema~~ Severe swelling, especially of the newborn's abdomen;
  - d. Major congenital anomalies; or
  - e. Respiratory distress; and
- 2. Document the condition in subsection ~~(I)(1)~~ (J)(1) in the newborn record.

**R9-16-112. Required Consultation**

**A.** A midwife shall obtain a consultation at the time a client is determined to have any of the following during the current pregnancy:

- 1. A positive culture for Group B Streptococcus;
- 2. History of seizure disorder;
- 3. History of stillbirth, premature labor, or ~~parity greater than 5~~ having delivered more than five newborns;
- 4. Age younger than 16 years;
- 5. A ~~primigravida~~ first pregnancy in a client older than 40 years of age;
- 6. Failure to auscultate fetal heart tones by the beginning of 22 weeks gestation;
- 7. Failure to gain 12 pounds by the beginning of 30 weeks gestation or gaining more than 8 eight pounds in any two-week period during pregnancy;

8. Greater than 1+ sugar, ketones, or protein in the urine on two consecutive visits;
9. Excessive vomiting or continued vomiting after the end of 20 weeks gestation;
10. Symptoms of decreased fetal movement;
11. A fever of 100.4° F or 38° C or greater measured twice at 24 hours apart;
12. Tender uterine fundus;
13. Effacement or dilation of the cervix, greater than a fingertip, accompanied by contractions, prior to the beginning of 36 weeks gestation;
14. Measurements for fetal growth that are not within 2 centimeters of the gestational age;
15. Second degree or greater lacerations of the birth canal;
16. Except as provided in ~~R9-16-111(B)(19)~~ R9-16-111(C)(4), ~~an abnormal~~ a progression of labor that does not follow the guidelines in R9-16-108(J)(4)(c);
17. An unengaged head at ~~7~~ seven centimeters dilation in active labor;
18. Failure of the uterus to return to normal size in the current postpartum period;
19. Persistent shortness of breath requiring more than 24 breaths per minute, or breathing which is difficult or painful;
20. Gonorrhea;
21. Chlamydia;
22. Syphilis;
23. Heart disease;
24. Kidney disease;
25. Blood disease; or
26. A positive test result for:
  - a. HIV,
  - b. Hepatitis B, or
  - c. Hepatitis C.

**B.** A midwife shall obtain a consultation at the time a newborn demonstrates any of the following conditions:

1. Weight less than 2500 grams or ~~5~~ five pounds, ~~8~~ eight ounces;
2. Congenital anomalies;
3. An Apgar score less than 7 at ~~5~~ five minutes;
4. Persistent breathing at a rate of more than 60 breaths per minute;
5. An irregular heartbeat;
6. Persistent poor muscle tone;

7. Less than 36 weeks gestation or greater than 42 weeks gestation by gestational exam;
  8. Yellowish-colored skin within 48 hours;
  9. Abnormal crying;
  10. Meconium staining of the skin;
  11. Lethargy;
  12. Irritability;
  13. Poor feeding;
  14. Excessively pink coloring over the entire body;
  15. Failure to urinate or pass meconium in the first 24 hours of life;
  16. A hip examination which results in a clicking or incorrect angle;
  17. Skin rashes not commonly seen in the newborn; or
  18. Temperature persistently above 99.0° or below 97.6° F.
- C.** The midwife shall inform the client of the consultation required in subsections (A) or (B) and recommendations of the physician or certified nurse midwife.
- D.** The midwife shall document the consultation required in subsections (A) or (B) and recommendations received in the client record or newborn record, as specified in R9-16-115(B)(14) or (C)(7) as applicable.

**R9-16-113. Emergency Measures**

- A.** In an emergency situation in which the health or safety of the client or newborn are determined to be at risk, a midwife:
1. Shall ensure that an emergency medical services provider is called; and
  2. May perform the following procedures as necessary:
    - a. Cardiopulmonary resuscitation of the client or newborn with a bag and mask;
    - b. Administration of oxygen at no more than 8 eight liters per minute via mask for the client and 5 five liters per minute for the newborn via neonatal mask;
    - c. Episiotomy to expedite the delivery during fetal distress;
    - d. Suturing of episiotomy or tearing of the perineum to stop active bleeding, following administration of local anesthetic, contingent upon consultation with a physician or certified nurse midwife, or physician's written orders;
    - e. Release of shoulder dystocia, the wedging of the shoulders of the fetus in the client's pelvis in such a way that the fetus is unable to be born without emergency action, by utilizing:
      - i. Hyperflexion of the client's legs to the abdomen,

- ii. Application of external pressure suprapubically,
- iii. Rotation of the nonimpacted shoulder until the impacted shoulder is released,
- iv. Delivery of the posterior shoulder,
- v. Application of posterior pressure on the anterior shoulder, or
- vi. Positioning of the client on all fours with the back arched;
- f. Manual exploration of the uterus for control of severe bleeding; or
- g. Manual removal of placenta.

**B.** A licensed midwife may administer a maximum dose of 20 units of pitocin intramuscularly, in 10-unit dosages each, 30 minutes apart, to a client for the control of postpartum hemorrhage, contingent upon physician or certified nurse midwife consultation and written orders by a physician, and arrangements for immediate transport of the client to a hospital.

**C.** A midwife shall document in the client's record any medications taken by a client for the control of postpartum hemorrhage.

**R9-16-114. Midwife Report after Termination of Midwifery Services**

**A.** A midwife shall complete a midwife report for each client, in a format provided by the Department, that includes the following:

- 1. The midwife's:
  - a. First name,
  - b. Last name, and
  - c. License number;
- 2. The client's:
  - a. Date of birth;
  - b. Client number;
  - c. Date of last menstrual period;
  - d. Estimated date of delivery;
  - e. Gravida ~~(number)~~, the number of times the client has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term;
  - f. Para ~~(number)~~, the number of times the client has given birth at greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth; and
  - g. If applicable, whether the client had a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech

- presentation;
3. A description of the maternal outcome, including any complications;
  4. If a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation:
    - a. Rate of dilation, and
    - b. Duration of second stage labor;
  5. If applicable, the newborn's:
    - a. Date of birth;
    - b. Gender;
    - c. Weight;
    - d. Length;
    - e. Head circumference;
    - f. Designation of average, small, or large for gestational age;
    - g. Apgar score at  $\pm$  one minute;
    - h. Apgar score at  $\leq$  five minutes;
    - i. Existence of complications;
    - j. Description of complications, if applicable;
    - k. Birth certificate filing date; and
    - l. Birth certificate number, if available;
  6. Whether the client required transfer of care and, if applicable:
    - a. Method of transport,
    - b. Type of facility or individual to which the midwife transferred care of the client,
    - c. Name of destination,
    - d. Time arrived at destination,
    - e. Confirmation the emergency care plan was utilized, and
    - f. Medical reason for transfer of care;
  7. The date midwifery services were terminated;
  8. Reason for the termination of midwifery services;
  9. If termination of midwifery services was due to a medical condition, the specific medical condition;
  10. Whether information was provided on newborn screening; and
  11. Whether newborn screening tests were ordered as required in A.R.S. § 36-694.
- B.** The midwife shall submit a midwife report for a client to the Department within 30 calendar days

after the termination of midwifery services to the client.

**R9-16-115. Client and Newborn Records**

- A.** A midwife shall ensure that a record is established and maintained according to A.R.S. §§ 12-2291 and 12-2297 for each:
1. Client, and
  2. Newborn delivered by the midwife from a client.
- B.** A midwife shall ensure that a record for each client includes the following:
1. The client's full name, date of birth, address, and client number;
  2. Names, addresses, and telephone numbers of the client's spouse or other individuals designated by the client to be contacted in an emergency;
  3. Written informed consent for midwifery services, as required in R9-16-108(C)(2);
  4. ~~Assertion~~ If applicable, assertion to decline required tests, as required in ~~R9-16-110(A)(3)~~ R9-16-110(A);
  5. A copy of the emergency care plan, as required in ~~R9-16-108(E)~~ R9-16-108(D);
  6. The date the midwife began providing midwifery services to the client;
  7. The date the client is expected to deliver the newborn;
  8. The date the newborn was delivered, if applicable;
  9. An initial assessment of the client to:
    - a. Determine whether the client has a history of a condition or circumstance that would preclude care of the client by the midwife, as specified in R9-16-111; and
    - b. Determine the:
      - i. Number and outcome of previous pregnancies, and
      - ii. Number of previous medical or midwife visits the client has had during the current pregnancy;
  10. Progress notes documenting the midwifery services provided to the client;
  11. For a delivery identified in R9-16-108(B):
    - a. Rate of dilation, and
    - b. Duration of second stage labor;
  12. Laboratory and diagnostic reports, ~~according to~~ required in R9-16-108(I);
  13. Documentation of consultations as required in R9-16-112, including:
    - a. Reason for the consultation,
    - b. Name of physician or certified nurse midwife contacted,
    - c. Date of consultation,

- d. Time of consultation, ~~and~~
  - e. Recommendation made by the physician or certified nurse midwife, and
  - f. Actions taken as a result of the consultation;
14. ~~Written~~ Any written reports received from consultations as required in R9-16-112;
  15. A description of any conditions or circumstances arising during the pregnancy that required the transfer of care;
  16. The name of the physician, certified nurse midwife, or hospital to which the care of the client was transferred, if applicable;
  17. Documentation of medications or vitamins taken by the client;
  18. Documentation of medications or vitamins administered to the client and the physician's written orders for the medications or vitamins;
  19. The outcome of the pregnancy;
  20. The date the midwife stopped providing midwifery services to the client; and
  21. Instructions provided to the client before the midwife stopped providing midwifery services to the client.
- C. A midwife shall ensure that a record for each newborn includes the following:
1. The full name, date of birth, and address of the newborn's mother;
  2. The newborn's:
    - a. Date of birth,
    - b. Gender,
    - c. Weight at birth,
    - d. Length at birth, and
    - e. Apgar scores at ~~4~~ one minute and ~~5~~ five minutes after birth;
  3. The newborn's estimated gestational age at birth;
  4. Progress notes documenting the midwifery services provided to the newborn;
  5. Laboratory and diagnostic reports, as required in R9-16-108(I);
  6. Documentation of consultations as required in R9-16-112, including:
    - a. Reason for the consultation,
    - b. Name of physician or certified nurse midwife contacted,
    - c. Date of consultation,
    - d. Time of consultation, ~~and~~
    - e. Recommendation made by the physician or certified nurse midwife, and
    - f. Actions taken as a result of the consultation;

7. ~~Written~~ Any written reports received from consultations as required in R9-16-112;
8. A description of any conditions or circumstances arising during or after the newborn's birth that required the transfer of care;
9. The name of the physician, certified nurse midwife, or hospital to which the care of the newborn was transferred, if applicable;
10. Documentation of medications or vitamins taken by the newborn;
11. Documentation of medications or vitamins administered to the newborn and the physician's written orders for the medications or vitamins;
12. Documentation of newborn screening, including when the specimen collection kit, as defined in A.A.C. R9-13-201, was submitted and results received, as required in R9-16-108(K)(4)(c);
13. The date the midwife stopped providing midwifery services to the newborn; and
14. Instructions provided to the client about the newborn before the midwife stopped providing midwifery services to the newborn.

**R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures**

In addition to the grounds specified in A.R.S. §§ ~~36-756~~ and 13-904(E) and 36-756, the Department may deny, suspend, or revoke a license permanently or for a definite period of time, and may assess a civil penalty for each violation, for any of the following causes:

1. Practicing under a false name or alias so as to interfere with or obstruct the investigative or regulatory process,
2. Practicing under the influence of drugs or alcohol,
3. Falsification of records,
4. Obtaining any fee for midwifery services by fraud or misrepresentation,
5. Permitting another to use the midwife's license, or
6. Knowingly providing false information to the Department.

## **TITLE 9. HEALTH SERVICES**

### **CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING**

#### **ARTICLE 1. LICENSING OF MIDWIFERY**

Section

- R9-16-101. Definitions
- R9-16-102. Application for Initial Licensure
- R9-16-103. Renewal
- R9-16-104. Administration
- R9-16-105. Continuing Education
- R9-16-106. Name Change; Duplicate License
- R9-16-107. Time-frames
- R9-16-108. Responsibilities of a Midwife; Scope of Practice
- R9-16-109. Informed Consent for Midwifery Services
- R9-16-110. Assertion to Decline Required Tests
- R9-16-111. Prohibited Practice; Transfer of Care
- R9-16-112. Required Consultation
- R9-16-113. Emergency Measures
- R9-16-114. Midwife Report after Termination of Midwifery Services
- R9-16-115. Client and Newborn Records
- R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures

## ARTICLE 1. LICENSING OF MIDWIFERY

### R9-16-101. Definitions

In addition to the definitions in A.R.S. § 36-751, the following definitions apply in this Article unless otherwise specified:

1. “Abnormal presentation” means the fetus is not in a head-down position with the crown of the head being the leading body part.
2. “Addiction” means a condition that results when a person ingests a substance that becomes compulsive and interferes with ordinary life responsibilities, such as work, relationships, or health.
3. “Amniotic” means the fluid surrounding the fetus while in the mother’s uterus.
4. “Apgar score” means the number indicating a newborn’s physical condition attained by rating selected body functions.
5. “Aseptic” means free of germs.
6. “Breech” means a complete breech, a frank breech, or an incomplete breech.
7. “Certified nurse midwife” means an individual who meets the criteria in 4 A.A.C. 19, Article 5 and is certified by the Arizona State Board of Nursing.
8. “Complete breech” means that at the time of birth the buttocks of a fetus is pointing downward with both legs folded at the knees and the feet near the buttocks.
9. “Calendar day” means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
10. “Cervix” means the narrow lower end of the uterus which protrudes into the cavity of the vagina.
11. “Consultation” means communication between a midwife and a physician or a midwife and a certified nurse midwife for the purpose of receiving a written or verbal recommendation and implementing prospective advice regarding the care of a pregnant woman or the woman’s child.
12. “Current photograph” means an image of an individual, taken no more than 60 calendar days before the submission of the individual’s application, in a Department-approved electronic format capable of producing an image that:
  - a. Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;

- b. Is 2 inches by 2 inches in size;
  - c. Is in natural color;
  - d. Is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline;
  - e. Has a plain white or off-white background; and
  - f. Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.
13. "Dilation" means opening of the cervix during the mechanism of labor to allow for passage of the fetus.
  14. "Effacement" means the gradual thinning of the cervix during the mechanism of labor and indicates progress in labor.
  15. "Emergency care plan" means the arrangements established by a midwife for a client's transfer of care in a situation in which the health or safety of the client or newborn are determined to be at risk.
  16. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
  17. "Episiotomy" means the cutting of the perineum, center, middle, or midline, in order to enlarge the vaginal opening for delivery.
  18. "Fetus" means a child in utero from conception to birth.
  19. "Frank breech" means that at the time of birth the buttocks of a fetus is pointing downward with both legs folded flat up against the head.
  20. "Gestation" means the length of time from conception to birth, as calculated from the first day of the last normal menstrual period.
  21. "Gravida" means the number of times the mother has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term.
  22. "Incomplete breech" means that at the time of birth the buttocks of a fetus is pointing downward with one leg folded at the knee with the foot near the buttocks.
  23. "Infant" has the same meaning as in A.R.S. § 36-694.
  24. "Informed consent" means a document signed by a client, as provided in R9-16-109, agreeing to the provision of midwifery services.
  25. "Intrapartum" means occurring from the onset of labor until after the delivery of the placenta.
  26. "Jurisprudence test" means an assessment of an individual's knowledge of the:
    - a. Laws of this state concerning the reporting of births, prenatal blood tests, and newborn screening; and

- b. Rules pertaining to the practice of midwifery.
27. “Ketones” means certain harmful chemical elements which are present in the body in excessive amounts when there is a compromised bodily function.
28. “Local registrar” means a person appointed by the state’s registrar of vital statistics for a registration district whose duty includes receipt of birth and death certificates for births and deaths occurring within that district for review, registration, and transmittal to the state office of vital records according to A.R.S. Title 36, Chapter 3.
29. “Meconium” means the first bowel movement of the newborn, which is greenish black in color and tarry in consistency.
30. “Midwifery services” means health care, provided by a midwife to a mother, related to pregnancy, labor, delivery or postpartum care.
31. “Newborn” has the same meaning as in A.R.S. § 36-694.
32. “Para” means the number of births that are greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth.
33. “Parity” means the number of newborns a woman has delivered.
34. “Perineum” means the muscular region in the female between the vaginal opening and the anus.
35. “Physician” means an allopathic, an osteopathic, or a naturopathic practitioner licensed according to A.R.S. Title 32, Chapters 13, 14, or 17.
36. “Postpartum” means the six-week period following delivery of a newborn and placenta.
37. “Prenatal” means the period from conception to the onset of labor and birth.
38. “Prenatal care” means the on-going risk assessments, clinical examinations, and prenatal, nutritional, and anticipatory guidance offered to a pregnant woman.
39. “Prenatal visit” means each clinical examination of a pregnant woman for the purpose of monitoring the course of gestation and the overall health of the woman.
40. “Primigravida” means a woman who is pregnant for the first time.
41. “Primipara” means a woman who has given birth to her first newborn.
42. “Quickening” means the first perceptible movement of the fetus in the uterus, occurring usually in the 16th to the 20th week of gestation.
43. “Rh” means a blood antigen.
44. “Serious mental illness” means a condition in an individual who is 18 years of age or older and who exhibits emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:
- a. Is severe and persistent, resulting in a long-term limitation of their functional

capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation; and

- b. Impairs or substantially interferes with the capacity of the individual to remain in the community without supportive treatment or services of a long-term or indefinite duration.
- 45. “Substance abuse” means the continued use of alcohol or other drugs in spite of negative consequences.
- 46. “Shoulder dystocia” means the shoulders of the fetus are wedged in the mother’s pelvis in such a way that the fetus is unable to be born without emergency action.
- 47. “Transfer of care” means that a midwife refers the care of a client or newborn to an emergency medical services provider, a certified nurse midwife, a hospital, or a physician who then assumes responsibility for the direct care of the client or newborn.
- 48. “Working day” means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a statewide furlough day.

**R9-16-102. Application for Initial Licensure**

- A. An applicant for an initial license to practice midwifery shall submit:
  - 1. An application in a format provided by the Department that contains:
    - a. The applicant’s name, address, telephone number, and e-mail address;
    - b. The applicant’s Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;
    - c. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
    - d. If the applicant was convicted of a felony or misdemeanor:
      - i. The date of the conviction,
      - ii. The state or jurisdiction of the conviction,
      - iii. An explanation of the crime of which the applicant was convicted, and
      - iv. The disposition of the case;
    - e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
    - f. An attestation that information required as part of the application has been submitted and is true and accurate; and
    - g. The applicant’s signature and date of signature;
  - 2. A copy of the applicant’s:

- a. U.S. passport, current or expired;
  - b. Birth certificate;
  - c. Naturalization documents; or
  - d. Documentation of legal resident alien status;
3. Documentation that demonstrates the applicant is 21 years of age or older if the documentation submitted in subsection (A)(2) does not demonstrate that the applicant is 21 years of age or older;
  4. Current documentation of completion of training in:
    - a. Adult basic cardiopulmonary resuscitation through a course recognized by the American Heart Association, and
    - b. Neonatal resuscitation through a course recognized by the American Academy of Pediatrics or American Heart Association;
  5. Documentation of a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
  6. Documentation that the applicant is certified by the North American Registry of Midwives as a Certified Professional Midwife;
  7. A current photograph of the applicant;
  8. A non-refundable application fee of \$25; and
  9. A non-refundable testing fee of \$100 for a jurisprudence test administered by the Department.
- B.** The Department shall review an application for an initial license to practice midwifery according to R9-16-107 and Table 1.1.
- C.** If an applicant receives notification of eligibility to take the jurisprudence test, the applicant:
1. Shall take the jurisprudence test administered by the Department,
  2. Shall provide proof of identity by a government-issued photographic identification card upon the request of the individual administering the jurisprudence test,
  3. May take the jurisprudence test as many times as desired without paying an additional testing fee, and
  4. Shall score 80% or higher correct answers on the jurisprudence test to be eligible to receive an initial license to practice midwifery.
- D.** If an applicant scores 80% or higher correct answers on the jurisprudence test, the Department shall provide written notice to the applicant, within five working days after the date of the jurisprudence test, to submit to the Department:
1. A licensing fee of \$25; and

2. The documentation required in subsection (A)(4) or (6), if the training required in subsection(A)(4) or certification required in subsection (A)(6) is not current.
- E.** The Department shall issue an initial license to practice midwifery within five working days after receiving the applicable documentation and licensing fee required in subsection (D).
- F.** The Department shall provide to an applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A) and inform the applicant that the applicant may reapply under subsection (A) if the applicant does not:
1. Score 80% or higher correct answers on the jurisprudence test within 180 calendar days after the date of the notification of eligibility to take the jurisprudence test, or
  2. Submit to the Department the applicable documentation and licensing fee required in subsection (D) within 120 calendar days after the date of the notification in subsection (D).

**R9-16-103. Renewal**

- A.** At least 30 calendar days and no more than 60 calendar days before the expiration date of a midwifery license, a midwife shall submit to the Department:
1. An application for renewal of a midwifery license in a format provided by the Department, that contains:
    - a. The midwife's name, address, telephone number, and e-mail address;
    - b. The midwife's license number;
    - c. Whether the midwife has been convicted of a felony or a misdemeanor in this or another state or jurisdiction in the previous two years;
    - d. If the midwife was convicted of a felony or misdemeanor:
      - i. The date of the conviction,
      - ii. The state or jurisdiction of the conviction,
      - iii. An explanation of the crime of which the midwife was convicted, and
      - iv. The disposition of the case;
    - e. Whether the midwife agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
    - f. An attestation that the midwife has completed the continuing education requirement in R9-16-105;
    - g. An attestation that the midwife is complying with the requirements in A.R.S. § 32-3211;
    - h. An attestation that information required as part of the application has been

submitted and is true and accurate; and

- i. The midwife's signature and date of signature;
2. Either:
  - a. Documentation that the midwife is currently certified by the North American Registry of Midwives as a Certified Professional Midwife; or
  - b. For a midwife who has been continuously licensed as a midwife by the Department since 1999, a copy of both sides of documentation showing the completion of current training in:
    - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
    - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b); and
3. A non-refundable renewal fee of \$25.

**B.** The Department shall review an application for renewal of a license to practice midwifery according to R9-16-107 and Table 1.

**R9-16-104. Administration**

- A.** A midwife may submit a written request for the Department to:
  1. Add the midwife's name, address, and telephone number to a list of licensed midwives on the Department's website; or
  2. Remove the midwife's name, address, and telephone number from a list of licensed midwives on the Department's website.
- B.** A midwife shall:
  1. Notify the Department in a format provided by the Department within five working days after:
    - a. A client has died while under the midwife's care,
    - b. A stillborn child has been delivered by the midwife, or
    - c. A newborn delivered by the midwife has died within the first 6 weeks after birth; and
  2. Provide a summary of the:
    - a. Circumstances leading up to the event, and
    - b. Actions taken by the midwife in response to the event.
- C.** A midwife shall:
  1. Maintain documentation of:

- a. Completion of current training in:
    - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
    - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b);
  - b. Except as provided in R9-16-103(A)(2)(b), current certification as a Certified Professional Midwife by the North American Registry of Midwives; and
  - c. The continuing education required in subsection R9-16-105 for at least the previous three years; and
2. Provide a copy of documentation required in subsection (C)(1) to the Department within 2 working days after the Department's request.

**R9-16-105. Continuing Education**

During the term of a midwifery license, the midwife shall obtain at least 20 continuing education units that:

- 1. Improve the midwife's ability to:
  - a. Provide services within the midwife's scope of practice,
  - b. Recognize and respond to situations outside the midwife's scope of practice, or
  - c. Provide guidance to other services a client may need; and
- 2. Have been approved as applicable to the practice of midwifery by the:
  - a. American Nurses Association,
  - b. American Congress of Obstetrics and Gynecologists,
  - c. Midwives Alliance of North America,
  - d. Arizona Medical Association,
  - e. American College of Nurse Midwives,
  - f. Midwifery Education Accreditation Council, or
  - g. Another health professional organization.

**R9-16-106. Name Change; Duplicate License**

A. To request a name change on a midwifery license or a duplicate midwifery license, a midwife shall submit in writing to the Department:

- 1. The midwife's name on the current midwifery license;
- 2. If applicable, the midwife's new name;
- 3. The midwife's address, license number, and e-mail address;

4. As applicable:
    - a. Documentation supporting the midwife's name change, or
    - b. A statement that the midwife is requesting a duplicate midwifery license; and
  5. A non-refundable fee of \$10.00.
- B.** Upon receipt of the written request required in subsection (A), the Department shall issue, as applicable:
1. An amended midwifery license that incorporates the name change but retains the expiration date of the midwifery license, or
  2. A duplicate midwifery license.

**R9-16-107. Time-frames**

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of license granted by the Department is specified in Table 1.1. The applicant or midwife and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license granted by the Department is specified in Table 1.1.
1. The administrative completeness review time-frame begins:
    - a. For an applicant submitting an application for initial licensure, when the Department receives the application packet required in R9-16-102(A); and
    - b. For a licensed midwife applying to renew a midwifery license, when the Department receives the application packet required in R9-16-103(A).
  2. If an application is incomplete, the Department shall provide a notice of deficiencies to the applicant or midwife describing the missing documentation or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies. An applicant or midwife shall submit to the Department the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1 for responding to a notice of deficiencies.
  3. If the applicant or midwife submits the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall provide a written notice of administrative completeness to the applicant or midwife.

4. If the applicant or midwife does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall consider the application withdrawn.
  5. When an application is complete the Department shall provide a notice of administrative completeness to the applicant or midwife.
  6. If the Department issues a notice of eligibility to take the jurisprudence test or a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1.1 and begins on the date of the notice of administrative completeness.
1. If an application complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.
  2. If an application does not comply with the requirements in this Article or A.R.S. Title 36, Chapter 6, Article 7, the Department shall make one comprehensive written request for additional information, unless the applicant or midwife has agreed in writing to allow the Department to submit supplemental requests for information. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested.
  3. An applicant or midwife shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information within the time specified in Table 1.1.
  4. If the applicant or midwife does not submit the additional information within the time specified in Table 1.1 or the additional information submitted by the applicant or midwife does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide to the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A).
  5. If the applicant or midwife submits the additional information within the time specified in Table 1.1 and the additional information submitted by the applicant or midwife demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.



**Table 1.1. Time-frames (in calendar days)**

<b>Type of Approval</b>	<b>Statutory Authority</b>	<b>Overall Time-Fram e</b>	<b>Administrative Completeness Review Time-Frame</b>	<b>Time to Respond to Notice of Deficiency</b>	<b>Substantiv e Review Time-Fram e</b>	<b>Time to Respond to Comprehensive Written Request</b>
Eligibility for Jurisprudence Test (R9-16-102)	A.R.S. §§ 36-753, 36-754, and 36-755	30	15	60	15	30
Midwifery License Renewal (R9-16-103)	A.R.S. § 36-754	30	15	30	15	15

**R9-16-108. Responsibilities of a Midwife; Scope of Practice**

- A.** A midwife shall provide midwifery services only to a healthy woman, determined through a physical assessment and review of the woman’s obstetrical history, whose expected outcome of pregnancy is most likely to be the delivery of a healthy newborn and an intact placenta.
- B.** Except as provided in R9-16-111(C) or (D), a midwife who is certified by the North American Registry of Midwives as a Certified Professional Midwife may accept a client for a vaginal delivery:
  - 1. After prior Cesarean section, or
  - 2. Of a fetus in a complete breech or frank breech presentation.
- C.** Before providing services to a client, a midwife shall:
  - 1. Inform a client, both orally and in writing, of:
    - a. The midwife’s scope of practice, educational background, and credentials;
    - b. If applicable to the client’s condition, the midwife’s experience with:
      - i. Vaginal birth after prior Cesarean section delivery, or
      - ii. Delivery of a fetus in a complete breech or frank breech presentation;
    - c. The potential risks; adverse outcomes; neonatal or maternal complications, including death; and alternatives associated with an at-home delivery specific to the client’s condition, including the conditions described in subsection (C)(1)(b);
    - d. The requirement for tests specified in subsections (I) and (K)(4)(c), and the potential risks for declining a test, and, if a test is declined, the need for a written assertion of a client’s decision to decline testing;
    - e. The requirement for consultation for a condition specified in R9-16-112; and

- f. The requirement for the transfer of care for a condition specified in R9-16-111; and
  2. Obtain a written informed consent for midwifery services according to R9-16-109.
- D.** A midwife shall establish an emergency care plan for the client that includes:
  1. The name, address, and phone number of:
    - a. The hospital closest to the birthing location that provides obstetrical services, and
    - b. An emergency medical services provider that provides service between the birthing location and the hospital identified in subsection (D)(1)(a);
  2. The hospital identified in subsection (D)(1)(a) is within 25 miles of the birthing location for a delivery identified in subsection (B);
  3. The signature of the client and the date signed; and
  4. The signature of the midwife and the date signed.
- E.** A midwife shall ensure the client receives a copy of the emergency care plan required in subsection (D).
- F.** A midwife shall implement the emergency care plan by immediately calling the emergency medical services provider identified in subsection (D)(1)(b) for any condition that threatens the life of the client or the client's child.
- G.** A midwife shall maintain all instruments used for delivery in an aseptic manner and other birthing equipment and supplies in clean and good condition.
- H.** A midwife shall assess a client's physical condition in order to establish the client's continuing eligibility to receive midwifery services.
- I.** During the prenatal period, the midwife shall:
  1. Until October 1, 2013, schedule or arrange for the following tests for the client within 28 weeks gestation:
    - a. Blood type, including ABO and Rh, with antibody screen;
    - b. Urinalysis;
    - c. HIV;
    - d. Hepatitis B;
    - e. Hepatitis C;
    - f. Syphilis as required in A.R.S. § 36-693;
    - g. Rubella titer;
    - h. Chlamydia; and
    - i. Gonorrhea;
  2. Until October 1, 2013, schedule or arrange for the following tests for the client:

- a. A blood glucose screening test for diabetes completed between 24 and 28 weeks of gestation;
  - b. A hematocrit and hemoglobin or complete blood count test completed between 28 and 36 weeks of gestation;
  - c. A vaginal-rectal swab for Group B Strep Streptococcus culture completed between 35 and 37 weeks of gestation;
  - d. At least one ultrasound and recommended follow-up testing to determine placental location and risk for placenta previa and placenta accrete; and
  - e. An ultrasound at 36-37 weeks gestation to confirm fetal presentation and estimated fetal weight for a breech pregnancy;
3. As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(1) are completed by the client within 28 weeks gestation;
  4. As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(2) are completed by the client;
  5. Conduct a prenatal visit at least once every 4 weeks until the beginning of 28 weeks of gestation, once every 2 weeks from the beginning of 28 weeks until the end of 36 weeks of gestation, and once a week after 36 weeks of gestation that includes:
    - a. Taking the client's weight, urinalysis for protein, nitrites, glucose and ketones; blood pressure; and assessment of the lower extremities for swelling;
    - b. Measurement of the fundal height and listening for fetal heart tones and, later in the pregnancy, feeling the abdomen to determine the position of the fetus;
    - c. Documentation of fetal movement beginning at 28 weeks of gestation;
    - d. Document of:
      - i. The occurrence of bleeding or invasive uterine procedures, and
      - ii. Any medications taken during the pregnancy that are specific to the needs of an Rh negative client;
    - e. Referral of a client for lab tests or other assessments, if applicable, based upon examination or history; and
    - f. Recommendation of administration of the drug RhoGam to unsensitized Rh negative mothers after 28 weeks, or any time bleeding or invasive uterine procedures are done, or midwife administration of RhoGam under a physician's written orders;
  6. Monitor fetal heart tones with fetoscope and document the client's report of first quickening, between 18 and 20 weeks of gestation;

7. Conduct weekly visits until signs of first quickening have occurred if first quickening has not been reported by 20 weeks of gestation;
8. Initiate a consultation if first quickening has not occurred by the end of 22 weeks of gestation; and
9. Conduct a prenatal visit of the birthing location before the end of 35 weeks of gestation to ensure that the birthing environment is appropriate for birth and that communication is available to the hospital and emergency medical services provider identified in subsection (D)(1).

**J.** During the intrapartum period, a midwife shall:

1. Determine if the client is in labor and the appropriate course of action to be taken by:
  - a. Assessing the interval, duration, intensity, location, and pattern of the contractions;
  - b. Determining the condition of the membranes, whether intact or ruptured, and the amount and color of fluid;
  - c. Reviewing with the client the need for an adequate fluid intake, relaxation, activity, and emergency management; and
  - d. Deciding whether to go to client's home, remain in telephone contact, or arrange for transfer of care or consultation;
2. Contact the hospital identified in subsection (D)(1)(a) according to the policies and procedures established by the hospital regarding communication with midwives when the client begins labor and ends labor;
3. During labor, assess the condition of the client and fetus upon initial contact, every half hour in active labor until completely dilated, and every 15 to 20 minutes during pushing, following rupture of the amniotic bag, or until the newborn is delivered, including:
  - a. Initial physical assessment and checking of vital signs every 2 to 4 hours of the client;
  - b. Assessing fetal heart tones every 30 minutes in active first stage labor, and every 15 minutes during second stage, following rupture of the amniotic bag, or with any significant change in labor patterns;
  - c. Periodically assessing contractions, fetal presentation, dilation, effacement, and fetal position by vaginal examination;
  - d. Maintaining proper fluid balance for the client throughout labor as determined by urinary output and monitoring urine for presence of ketones; and
  - e. Assisting in support and comfort measures to the client and family;

4. For deliveries described in subsection (B), during labor determine:
    - a. For primiparas, the progress of active labor by monitoring whether dilation occurs at an average of 1 centimeter per hour until completely dilated, and a second stage does not exceed 2 hours, if applicable;
    - b. Normal progress of active labor for multigravidas by monitoring whether dilation occurs at an average of 1.5 to 2 centimeters per hour until completely dilated, and a second stage does not exceed 1 hour, if applicable; or
    - c. The progress of active labor according to the Management Guidelines recommended by the American Congress of Obstetricians and Gynecologists;
  5. After delivery of the newborn:
    - a. Assess the newborn at 1 minute and 5 minutes to determine the Apgar scores;
    - b. Physically assess the newborn for any abnormalities;
    - c. Inspect the client's perineum, vagina, and cervix for lacerations;
    - d. Deliver the placenta within 1 hour and assess the client for signs of separation, frank or occult bleeding; and
    - e. Examine the placenta for intactness and to determine the number of umbilical cord vessels; and
  6. Recognize and respond to any situation requiring immediate intervention.
- K.** During the postpartum period, the midwife shall:
1. During the 2 hours after delivery of the placenta, provide the following care to the client:
    - a. Every 15 to 20 minutes for the first hour and every 30 minutes for the second hour:
      - i. Take vital signs of the client,
      - ii. Perform external massage of the uterus, and
      - iii. Evaluate bleeding;
    - b. Assist the client to urinate within 2 hours following the birth, if applicable;
    - c. Evaluate the perineum, vagina, and cervix for tears, bleeding, or blood clots;
    - d. Assist with maternal newborn and infant bonding;
    - e. Assist with initial breast feeding, instructing the client in the care of the breast, and reviewing potential danger signs, if appropriate;
    - f. Provide instruction to the family about adequate fluid and nutritional intake, rest, and the types of exercise allowed, normal and abnormal bleeding, bladder and bowel function, appropriate baby care, signs and symptoms of postpartum depression, and any symptoms that may pose a threat to the health or life of the

- client or the client's newborn and appropriate emergency phone numbers;
  - g. Recommend or administer under physician's written orders, the drug RhoGam to an unsensitized Rh-negative mother who delivers an Rh-positive newborn. Administration shall occur not later than 72 hours after birth; and
  - h. Document any medications taken by the client in the client's record to an unsensitized Rh-negative client who delivers an Rh-positive newborn;
2. During the 2 hours after delivery of the placenta, provide the following care to the newborn:
- a. Perform a newborn physical exam to determine the newborn's gestational age and any abnormalities;
  - b. Comply with the requirements in A.A.C. R9-6-332;
  - c. Recommend or administer Vitamin K under physician's written orders to the newborn. Administration shall occur not later than 72 hours after birth; and
  - d. Document the administration of any medications or vitamins to the newborn in the newborn's record according to the physician's written orders;
3. Evaluate the client or newborn for any abnormal or emergency situation and seek consultation or intervention, if applicable, according to these rules; and
4. Re-evaluate the condition of the client and newborn between 24 and 72 hours after delivery to determine whether the recovery is following a normal course, including:
- a. Assessing baseline indicators such as the client's vital signs, bowel and bladder function, bleeding, breasts, feeding of the newborn, sleep/rest cycle, activity with any recommendations for change;
  - b. Assessing baseline indicators of well-being in the newborn such as vital signs, weight, cry, suck and feeding, fontanel, sleeping, and bowel and bladder function with documentation of meconium, and providing any recommendations for changes made to the family;
  - c. Submitting blood obtained from a heel stick to the newborn to the state laboratory for screening according to A.R.S. § 36-694(B) and 9 A.A.C. 13, Article 2, unless a written refusal is obtained from the client and documented in the client's record and the newborn's record; and
  - d. Recommending to the client that the client secure medical follow-up for her newborn.
- L.** A midwife shall file a birth certificate with the local registrar within seven calendar days after the birth of the newborn.

**M.** Subsections (B), (C)(1)(b), (C)(1)(d) and (J)(2) and (4) are effective July 1, 2014.

**R9-16-109. Informed Consent for Midwifery Services**

**A.** A midwife shall obtain a written informed consent for midwifery services in a format provided by the Department that contains:

1. The midwife's:
  - a. Name,
  - b. Telephone number,
  - c. License number, and
  - d. E-mail address;
2. The client's:
  - a. Name;
  - b. Address;
  - c. Telephone number;
  - d. Date of birth; and
  - e. E-mail address, if applicable;
3. An attestation that the client was:
  - a. Provided the information required in R9-16-108(C)(1);
  - b. Informed of the emergency care plan as required in R9-16-108(D); and
  - c. Given an opportunity to have questions answered, have an understanding of the information provided, and choose to continue with midwifery services; and
4. The signatures of the client and midwife and date signed.

**B.** A midwife shall ensure that the written informed consent for midwifery services is placed in the client file.

**C.** A midwife shall ensure that a copy of the written informed consent for midwifery services is provided to the:

1. Client, and
2. Department within five calendar days after a Department request.

**D.** This Section is effective October 1, 2013.

**R9-16-110. Assertion to Decline Required Tests**

**A.** Except for R9-16-108(I)(1)(f), if the client declines a test required in R9-16-108(I)(3) and (4), a midwife shall obtain a written assertion of a client's decision to decline a required test in a format provided by the Department, that contains:

1. The midwife's:
    - a. Name,
    - b. Telephone number,
    - c. License number, and
    - d. E-mail address;
  2. The client's:
    - a. Name;
    - b. Address;
    - c. Telephone number;
    - d. Date of birth; and
    - e. E-mail address, if applicable;
  3. The required test being declined by the client;
  4. Additional information as required by the Department;
  5. An attestation that the client:
    - a. Was provided the information as required in R9-16-108(C)(1)(d), and
    - b. Is declining testing; and
  6. The signatures of the client and midwife and date signed.
- B.** A midwife shall ensure that the written assertion of the decision to decline a test is placed in the client file.
- C.** A midwife shall ensure that a copy of the written assertion of the decision to decline a test is provided to the:
1. Client, and
  2. Department within five calendar days after a Department request.
- D.** This Section is effective October 1, 2013.

**R9-16-111. Prohibited Practice; Transfer of Care**

- A.** A midwife shall not provide midwifery services in a location that has the potential to cause harm to the client or the client's child.
- B.** A midwife shall not accept for midwifery services or continue midwifery services for a client who has or develops any of the following:
1. A previous surgery that involved:
    - a. An incision in the uterus, except as provided in R9-16-108(B)(1); or
    - b. A previous uterine surgery that enters the myometrium;
  2. Multiple fetuses;

3. Placenta previa or placenta accreta;
4. A history of severe postpartum bleeding, of unknown cause, which required transfusion;
5. Deep vein thrombosis or pulmonary embolism;
6. Uncontrolled gestational diabetes;
7. Insulin-dependent diabetes;
8. Hypertension;
9. Rh disease with positive titers;
10. Active:
  - a. Tuberculosis;
  - b. Syphilis;
  - c. Genital herpes at the onset of labor;
  - d. Hepatitis until treated and recovered, following which midwifery services may resume; or
  - e. Gonorrhea until treated and recovered, following which midwifery services may resume;
11. Preeclampsia or eclampsia persisting after the second trimester;
12. A blood pressure of 140/90 or an increase of 30 millimeters of Mercury systolic or 15 millimeters of Mercury diastolic over the client's lowest baseline blood pressure for two consecutive readings taken at least six hours apart;
13. A persistent hemoglobin level below 10 grams or a hematocrit below 30 during the third trimester;
14. A pelvis that will not safely allow a baby to pass through during labor;
15. A serious mental illness;
16. Evidence of substance abuse, including six months prior to pregnancy, to one of the following, evident during an assessment of a client:
  - a. Alcohol,
  - b. Narcotics, or
  - c. Other drugs;
17. Except as provided in R9-16-108(B)(2), a fetus with an abnormal presentation;
18. Labor beginning before the beginning of 36 weeks gestation;
19. A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable;
20. Gestational age greater than 34 weeks with no prior prenatal care;
21. A gestation beyond 42 weeks;

22. Presence of ruptured membranes without onset of labor within 24 hours;
  23. Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute;
  24. Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones;
  25. A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or
  26. A non-bleeding placenta retained for more than 60 minutes.
- C.** A midwife shall not perform a vaginal delivery after prior Cesarean section for a client who:
1. Had:
    - a. More than one previous Cesarean section;
    - b. A previous Cesarean section:
      - i. With a classical, vertical, or unknown uterine incision;
      - ii. Within 18 months before the expected delivery;
      - iii. With complications, including uterine infection; or
      - iv. Due to failure to progress as a result of cephalopelvic insufficiency; or
    - c. Complications during a previous vaginal delivery after a Cesarean section; or
  2. Has a fetus:
    - a. With fetal anomalies, confirmed by an ultrasound; or
    - b. In a breech presentation.
- D.** A midwife shall not perform a vaginal delivery of a fetus in a breech presentation for a client who:
1. Had a previous:
    - a. Unsuccessful vaginal delivery or other demonstration of an inadequate maternal pelvis, or
    - b. Cesarean section; or
  2. Has a fetus:
    - a. With fetal anomalies, confirmed by an ultrasound;
    - b. With an estimated fetal weight less than 2500 grams or more than 3800 grams; or
    - c. In an incomplete breech presentation.
- E.** If the client has any of the conditions in subsections (B) through (D), a midwife shall:
1. Document the condition in the client record, and
  2. Initiate transfer of care.
- F.** A midwife shall not perform any operative procedures except as provided in R9-16-113.
- G.** A midwife shall not:
1. Use any artificial, forcible, or mechanical means to assist birth; or

2. Attempt to correct fetal presentations by external or internal movement of the fetus.
- H.** A midwife shall not administer drugs or medications except as provided in R9-16-108(I)(5)(f), (K)(1)(g), (K)(2)(c), or R9-16-113.
- I.** Except as provided in R9-16-113, a midwife shall:
1. Discontinue midwifery services and transfer care of a newborn in which any of the following conditions are present:
    - a. Birth weight less than 2000 grams;
    - b. Pale, blue, or gray color after 10 minutes;
    - c. Excessive edema;
    - d. Major congenital anomalies; or
    - e. Respiratory distress; and
  2. Document the condition in subsection (I)(1) in the newborn record.

**R9-16-112. Required Consultation**

- A.** A midwife shall obtain a consultation at the time a client is determined to have any of the following during the current pregnancy:
1. A positive culture for Group B Streptococcus;
  2. History of seizure disorder;
  3. History of stillbirth, premature labor, or parity greater than 5;
  4. Age younger than 16 years;
  5. A primigravida older than 40 years of age;
  6. Failure to auscultate fetal heart tones by the beginning of 22 weeks gestation;
  7. Failure to gain 12 pounds by the beginning of 30 weeks gestation or gaining more than 8 pounds in any two-week period during pregnancy;
  8. Greater than 1+ sugar, ketones, or protein in the urine on two consecutive visits;
  9. Excessive vomiting or continued vomiting after the end of 20 weeks gestation;
  10. Symptoms of decreased fetal movement;
  11. A fever of 100.4° F or 38° C or greater measured twice at 24 hours apart;
  12. Tender uterine fundus;
  13. Effacement or dilation of the cervix, greater than a fingertip, accompanied by contractions, prior to the beginning of 36 weeks gestation;
  14. Measurements for fetal growth that are not within 2 centimeters of the gestational age;
  15. Second degree or greater lacerations of the birth canal;
  16. Except as provided in R9-16-111(B)(19), an abnormal progression of labor;

17. An unengaged head at 7 centimeters dilation in active labor;
  18. Failure of the uterus to return to normal size in the current postpartum period;
  19. Persistent shortness of breath requiring more than 24 breaths per minute, or breathing which is difficult or painful;
  20. Gonorrhea;
  21. Chlamydia;
  22. Syphilis;
  23. Heart disease;
  24. Kidney disease;
  25. Blood disease; or
  26. A positive test result for:
    - a. HIV,
    - b. Hepatitis B, or
    - c. Hepatitis C.
- B.** A midwife shall obtain a consultation at the time a newborn demonstrates any of the following conditions:
1. Weight less than 2500 grams or 5 pounds, 8 ounces;
  2. Congenital anomalies;
  3. An Apgar score less than 7 at 5 minutes;
  4. Persistent breathing at a rate of more than 60 breaths per minute;
  5. An irregular heartbeat;
  6. Persistent poor muscle tone;
  7. Less than 36 weeks gestation or greater than 42 weeks gestation by gestational exam;
  8. Yellowish-colored skin within 48 hours;
  9. Abnormal crying;
  10. Meconium staining of the skin;
  11. Lethargy;
  12. Irritability;
  13. Poor feeding;
  14. Excessively pink coloring over the entire body;
  15. Failure to urinate or pass meconium in the first 24 hours of life;
  16. A hip examination which results in a clicking or incorrect angle;
  17. Skin rashes not commonly seen in the newborn; or
  18. Temperature persistently above 99.0° or below 97.6° F.

- C. The midwife shall inform the client of the consultation required in subsections (A) or (B) and recommendations of the physician or certified nurse midwife.
- D. The midwife shall document the consultation required in subsections (A) or (B) and recommendations received in the client record or newborn record.

**R9-16-113. Emergency Measures**

- A. In an emergency situation in which the health or safety of the client or newborn are determined to be at risk, a midwife:
  - 1. Shall ensure that an emergency medical services provider is called; and
  - 2. May perform the following procedures as necessary:
    - a. Cardiopulmonary resuscitation of the client or newborn with a bag and mask;
    - b. Administration of oxygen at no more than 8 liters per minute via mask for the client and 5 liters per minute for the newborn via neonatal mask;
    - c. Episiotomy to expedite the delivery during fetal distress;
    - d. Suturing of episiotomy or tearing of the perineum to stop active bleeding, following administration of local anesthetic, contingent upon consultation with a physician or certified nurse midwife, or physician's written orders;
    - e. Release of shoulder dystocia by utilizing:
      - i. Hyperflexion of the client's legs to the abdomen,
      - ii. Application of external pressure suprapubically,
      - iii. Rotation of the nonimpacted shoulder until the impacted shoulder is released,
      - iv. Delivery of the posterior shoulder,
      - v. Application of posterior pressure on the anterior shoulder, or
      - vi. Positioning of the client on all fours with the back arched;
    - f. Manual exploration of the uterus for control of severe bleeding; or
    - g. Manual removal of placenta.
- B. A licensed midwife may administer a maximum dose of 20 units of pitocin intramuscularly, in 10-unit dosages each, 30 minutes apart, to a client for the control of postpartum hemorrhage, contingent upon physician or certified nurse midwife consultation and written orders by a physician, and arrangements for immediate transport of the client to a hospital.
- C. A midwife shall document in the client's record any medications taken by a client for the control of postpartum hemorrhage.

**R9-16-114. Midwife Report after Termination of Midwifery Services**

- A. A midwife shall complete a midwife report for each client, in a format provided by the Department, that includes the following:
1. The midwife's:
    - a. First name,
    - b. Last name, and
    - c. License number;
  2. The client's:
    - a. Date of birth;
    - b. Client number;
    - c. Date of last menstrual period;
    - d. Estimated date of delivery;
    - e. Gravida (number);
    - f. Para (number); and
    - g. If applicable, whether the client had a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation;
  3. A description of the maternal outcome, including any complications;
  4. If a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation:
    - a. Rate of dilation, and
    - b. Duration of second stage labor;
  5. If applicable, the newborn's:
    - a. Date of birth;
    - b. Gender;
    - c. Weight;
    - d. Length;
    - e. Head circumference;
    - f. Designation of average, small, or large for gestational age;
    - g. Apgar score at 1 minute;
    - h. Apgar score at 5 minutes;
    - i. Existence of complications;
    - j. Description of complications, if applicable;

- k. Birth certificate filing date; and
    - l. Birth certificate number, if available;
  - 6. Whether the client required transfer of care and, if applicable:
    - a. Method of transport,
    - b. Type of facility or individual to which the midwife transferred care of the client,
    - c. Name of destination,
    - d. Time arrived at destination,
    - e. Confirmation the emergency care plan was utilized, and
    - f. Medical reason for transfer of care;
  - 7. The date midwifery services were terminated;
  - 8. Reason for the termination of midwifery services;
  - 9. If termination of midwifery services was due to a medical condition, the specific medical condition;
  - 10. Whether information was provided on newborn screening; and
  - 11. Whether newborn screening tests were ordered as required in A.R.S. § 36-694.
- B.** The midwife shall submit a midwife report for a client to the Department within 30 calendar days after the termination of midwifery services to the client.

**R9-16-115. Client and Newborn Records**

- A.** A midwife shall ensure that a record is established and maintained according to A.R.S. §§ 12-2291 and 12-2297 for each:
  - 1. Client, and
  - 2. Newborn delivered by the midwife from a client.
- B.** A midwife shall ensure that a record for each client includes the following:
  - 1. The client's full name, date of birth, address, and client number;
  - 2. Names, addresses, and telephone numbers of the client's spouse or other individuals designated by the client to be contacted in an emergency;
  - 3. Written informed consent for midwifery services, as required in R9-16-108(C)(2);
  - 4. Assertion to decline required tests, as required in R9-16-110(A)(3);
  - 5. A copy of the emergency care plan, as required in R9-16-108(E);
  - 6. The date the midwife began providing midwifery services to the client;
  - 7. The date the client is expected to deliver the newborn;
  - 8. The date the newborn was delivered, if applicable;
  - 9. An initial assessment of the client to:

- a. Determine whether the client has a history of a condition or circumstance that would preclude care of the client by the midwife, as specified in R9-16-111; and
  - b. Determine the:
    - i. Number and outcome of previous pregnancies, and
    - ii. Number of previous medical or midwife visits the client has had during the current pregnancy;
  - 10. Progress notes documenting the midwifery services provided to the client;
  - 11. For a delivery identified in R9-16-108(B):
    - a. Rate of dilation, and
    - b. Duration of second stage labor;
  - 12. Laboratory and diagnostic reports, according to R9-16-108(I);
  - 13. Documentation of consultations as required in R9-16-112, including:
    - a. Reason for the consultation,
    - b. Name of physician or certified nurse midwife,
    - c. Date of consultation,
    - d. Time of consultation, and
    - e. Recommendation made by the physician or certified nurse midwife;
  - 14. Written reports received from consultations as required in R9-16-112;
  - 15. A description of any conditions or circumstances arising during the pregnancy that required the transfer of care;
  - 16. The name of the physician, certified nurse midwife, or hospital to which the care of the client was transferred, if applicable;
  - 17. Documentation of medications or vitamins taken by the client;
  - 18. Documentation of medications or vitamins administered to the client and the physician's written orders for the medications or vitamins;
  - 19. The outcome of the pregnancy;
  - 20. The date the midwife stopped providing midwifery services to the client; and
  - 21. Instructions provided to the client before the midwife stopped providing midwifery services to the client.
- C. A midwife shall ensure that a record for each newborn includes the following:
- 1. The full name, date of birth, and address of the newborn's mother;
  - 2. The newborn's:
    - a. Date of birth,
    - b. Gender,

- c. Weight at birth,
- d. Length at birth, and
- e. Apgar scores at 1 minute and 5 minutes after birth;
- 3. The newborn's estimated gestational age at birth;
- 4. Progress notes documenting the midwifery services provided to the newborn;
- 5. Laboratory and diagnostic reports, as required in R9-16-108(I);
- 6. Documentation of consultations as required in R9-16-112:
  - a. Reason for the consultation,
  - b. Name of physician or certified nurse midwife,
  - c. Date of consultation,
  - d. Time of consultation, and
  - e. Recommendation made by the physician or certified nurse midwife;
- 7. Written reports received from consultations as required in R9-16-112;
- 8. A description of any conditions or circumstances arising during or after the newborn's birth that required the transfer of care;
- 9. The name of the physician, certified nurse midwife, or hospital to which the care of the newborn was transferred, if applicable;
- 10. Documentation of medications or vitamins taken by the newborn;
- 11. Documentation of medications or vitamins administered to the newborn and the physician's written orders for the medications or vitamins;
- 12. Documentation of newborn screening, including when the specimen collection kit, as defined in A.A.C. R9-13-201, was submitted and results received, as required in R9-16-108(K)(4)(c);
- 13. The date the midwife stopped providing midwifery services to the newborn; and
- 14. Instructions provided to the client about the newborn before the midwife stopped providing midwifery services to the newborn.

**R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures**

In addition to the grounds specified in A.R.S. §§ 36-756 and 13-904(E), the Department may deny, suspend, or revoke a license permanently or for a definite period of time, and may assess a civil penalty for each violation, for any of the following causes:

- 1. Practicing under a false name or alias so as to interfere with or obstruct the investigative or regulatory process,
- 2. Practicing under the influence of drugs or alcohol,

3. Falsification of records,
4. Obtaining any fee for midwifery services by fraud or misrepresentation,
5. Permitting another to use the midwife's license, or
6. Knowingly providing false information to the Department.

## Statutory Authority For Rules in 9 A.A.C. 16, Article 1

### **36-104. Powers and duties**

This section is not to be construed as a statement of the department's organization. This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103. The director shall:

1. Administer the following services:
  - (a) Administrative services, which shall include at a minimum the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds utilized by the department.
  - (b) Public health support services, which shall include at a minimum:
    - (i) Consumer health protection programs that include at least the functions of community water supplies, general sanitation, vector control and food and drugs.
    - (ii) Epidemiology and disease control programs that include at least the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.
    - (iii) Laboratory services programs.
    - (iv) Health education and training programs.
    - (v) Disposition of human bodies programs.
  - (c) Community health services, which shall include at a minimum:
    - (i) Medical services programs that include at least the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.
    - (ii) Dependency health care services programs that include at least the functions of need determination, availability of health resources to medically dependent individuals, quality control, utilization control and industry monitoring.
    - (iii) Children with physical disabilities services programs.
    - (iv) Programs for the prevention and early detection of an intellectual disability.
  - (d) Program planning, which shall include at least the following:
    - (i) An organizational unit for comprehensive health planning programs.
    - (ii) Program coordination, evaluation and development.
    - (iii) Need determination programs.
    - (iv) Health information programs.
2. Include and administer, within the office of the director, staff services, which shall include at a minimum budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.
3. Make rules and regulations for the organization and proper and efficient operation of the department.
4. Determine when a health care emergency or medical emergency situation exists or occurs within the state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such a situation is determined to exist, the director shall immediately report that situation to the legislature and the governor. The report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.
5. Provide a system of unified and coordinated health services and programs between the state and county governmental health units at all levels of government.
6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.

7. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of funds.
8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.
9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of the department's duties subject to the departmental rules and regulations on the confidentiality of information.
10. Establish and maintain separate financial accounts as required by federal law or regulations.
11. Advise with and make recommendations to the governor and the legislature on all matters concerning the department's objectives.
12. Take appropriate steps to reduce or contain costs in the field of health services.
13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.
14. Encourage an effective use of available federal resources in this state.
15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.
16. Promote the effective utilization of health manpower and health facilities that provide health care for the citizens of this state.
17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.
18. Certify training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.
19. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.
20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
21. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.
22. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, and that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are no lapsing and do not revert to the state general fund at the close of the fiscal year.
23. Identify successful methamphetamine prevention programs in other states that may be implemented in this state.
24. Pursuant to chapter 13, article 8 of this title, coordinate all public health and risk assessment issues associated with a chemical or other toxic fire event if a request for

the event is received from the incident commander, the emergency response commission or the department of public safety and if funding is available. Coordination of public health issues shall include general environmental health consultation and risk assessment services consistent with chapter 13, article 8 of this title and, in consultation with the Arizona poison control system, informing the public as to potential public health risks from the environmental exposure. Pursuant to chapter 13, article 8 of this title, the department of health services shall also prepare a report, in consultation with appropriate state, federal and local governmental agencies, that evaluates the public health risks from the environmental exposure. The department of health services' report shall include any department of environmental quality report and map of smoke dispersion from the fire, the results of any environmental samples taken by the department of environmental quality and the toxicological implications and public health risks of the environmental exposure. The department of health services shall consult with the Arizona poison control system regarding toxicology issues and shall prepare and produce its report for the public as soon as practicable after the event. The department of health services shall not use any monies pursuant to section 49-282, subsection E to implement this paragraph.

**36-136. Powers and duties of director; compensation of personnel; rules**

- A. The director shall:
1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
  2. Perform all duties necessary to carry out the functions and responsibilities of the department.
  3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
  4. Administer and enforce the laws relating to health and sanitation and the rules of the department.
  5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.
  6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.
  7. Prepare sanitary and public health rules.
  8. Perform other duties prescribed by law.
- B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.
- C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.
- D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be

competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.
  2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.
- E. The compensation of all personnel shall be as determined pursuant to section 38-611.
- F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.
- G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.
- H. The director, by rule, shall:
1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.
  2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.
  3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.
  4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

- (a) Served at a noncommercial social event such as a potluck.
  - (b) Prepared at a cooking school that is conducted in an owner-occupied home.
  - (c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.
  - (d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.
  - (e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.
  - (f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.
  - (g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.
  - (h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.
5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.
  6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.
  7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or

transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.
  9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.
  10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.
  11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.
  12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.
  13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.
- I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.
  - J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

- K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.
- L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.
- M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.
- N. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption exempt from the rules prescribed in subsection H of this section.

**36-751. Definitions**

In this article, unless the context otherwise requires:

- 1. "Department" means the department of health services.
- 2. "Director" means the director of the department of health services.
- 3. "Midwife" means a person who delivers a baby or provides health care related to pregnancy, labor, delivery and postpartum care of the mother and her infant.

**36-752. Licensure; exceptions**

- A. Except as provided in subsection B of this section, no person may act as a midwife without being licensed pursuant to this article.
- B. The following persons are exempt from the licensure requirements of this section:
  - 1. A physician licensed pursuant to title 32 who is permitted within his scope of practice to deliver infants.
  - 2. A registered nurse certified by the state board of nursing as a qualified nurse-midwife.
  - 3. A person acting under the direction and supervision of a physician licensed pursuant to title 32 who is permitted within his scope of practice to deliver infants.
  - 4. A student of midwifery in the course of taking an internship, preceptorship or clinical training program, who is under the direction and supervision of a midwife licensed pursuant to this article.
  - 5. A person who has no prearranged agreement to provide delivery assistance, but who delivers a baby as a result of an emergency situation.
  - 6. A mother or father delivering their own infant.

**36-753. Application for license as midwife**

A person who desires to obtain a license to practice midwifery shall make written application to the director of the department of health services, upon a form to be supplied by the director and shall furnish such information as may be required by the director.

**36-754. Licensing of midwives; renewal of license**

- A. The director shall grant a midwife's license to a person meeting the qualifications prescribed by this article and rules adopted pursuant to this article and paying applicable fees.
- B. A license is valid for two years and may be renewed biennially on application to the director and payment of applicable fees.

- C. A person shall file an application for renewal at least thirty days and no more than sixty days before the expiration date of the current license.

**36-755. Powers and duties of the director**

- A. The director may adopt rules necessary for the proper administration and enforcement of this article.
- B. The director shall, by rule:
  - 1. Define and describe, consistent with this article and the laws of this state, the duties and limitations of the practice of midwifery.
  - 2. Adopt standards with respect to the practice of midwifery designed to safeguard the health and safety of the mother and child.
  - 3. Establish the criteria for granting, denying, suspending and revoking a license in order to protect the health and safety of the mother and child.
  - 4. Describe and define reasonable and necessary minimum qualifications for midwives, including:
    - (a) The ability to read and write.
    - (b) Knowledge of the fundamentals of hygiene.
    - (c) The ability to recognize abnormal or potentially abnormal conditions during pregnancy, labor and delivery and following birth.
    - (d) Knowledge of the laws of this state concerning reporting of births, prenatal blood tests and newborn screening and of the rules pertaining to midwifery.
    - (e) Education requirements.
    - (f) Age requirements.
    - (g) Good moral character.

**36-756. Grounds for denial of license and disciplinary action; hearing; appeal; civil penalties; injunctions**

- A. The director may deny, suspend or revoke the license of any midwife who:
  - 1. Violates any provision of this article or the rules adopted under this article.
  - 2. Has been convicted of a felony or a misdemeanor involving moral turpitude.
  - 3. Indulges in conduct or a practice detrimental to the health or safety of the mother and child.
- B. The department may deny a license without holding a hearing. An applicant may appeal this decision pursuant to title 41, chapter 6, article 10.
- C. The department shall conduct any hearing to suspend or revoke a license in accordance with the procedures established pursuant to title 41, chapter 6, article 10. If the director determines at the conclusion of a hearing that grounds exist to suspend or revoke a license, he may do so permanently or for any period of time he deems appropriate and under any conditions that he deems appropriate. An applicant for licensure or a licensee may appeal the final decision of the director.
- D. In addition to other disciplinary action, the director may assess a civil penalty of not more than one hundred dollars for each violation of this article or a rule adopted pursuant to this article as determined by a hearing held pursuant to this section. Each day that a violation continues constitutes a separate offense. The attorney general or the county attorney may bring an action in the name of this state to enforce a civil penalty. The action shall be filed in the superior court or in justice court in the county where the violation occurred.
- E. In addition to other available remedies, the director may apply to the superior court for an injunction to restrain a person from violating a provision of this article or a rule adopted pursuant to this article. The court shall grant a temporary restraining order, a preliminary injunction or a permanent injunction without bond. The defendant may be served in any county of this state. The action shall be brought on behalf of the director by the attorney general or the county attorney of the county in which the violation is occurring.

**36-756.01. Investigations; right to examine evidence; subpoenas; confidentiality**

- A. The director may investigate information that indicates that a person is violating this article. In connection with an investigation, the department may examine and copy documents and other physical evidence wherever located that relate to the conduct or competency of a midwife pursuant to the requirements of this article.
- B. Pursuant to an investigation or an administrative proceeding, the director may issue subpoenas to compel the testimony of witnesses or to demand the production of relevant documents and other physical evidence. If a person refuses to comply with a subpoena, the director may apply to the superior court for an order to compel compliance.
- C. Patient records, including clinical records, medical reports, laboratory statements and reports, files, films and oral statements relating to patient examinations, findings and treatment, that are kept by the director pursuant to an investigation are not available to the public. The director shall keep confidential the names of patients whose records are reviewed during the course of an investigation or hearing.

**36-758. Fees**

The director, by rule, shall establish and collect nonrefundable fees that do not exceed:

- 1. Twenty-five dollars for an initial application.
- 2. Fifty dollars for an initial license.
- 3. Two hundred fifty dollars for testing.
- 4. Fifty dollars for license renewal.
- 5. Ten dollars for a duplicate license.

**36-759. Use of title; prohibitions**

It is a violation of this article for a person who is not licensed pursuant to this article to use the title "licensed midwife" and the abbreviation "L.M." or to use any other words, letters, signs or figures to indicate that the person is a licensed midwife.

**36-760. Persons and acts not affected by this article**

The provisions of this article do not apply to a person who provides information and support in preparation for a normal labor and delivery and assists in the delivery of a baby if that person does not do the following:

- 1. Advertise as a midwife or as a provider of midwife services.
- 2. Accept any form of compensation for midwife services.
- 3. Use any words, letters, signs or figures to indicate that the person is a midwife.

**41-1073. Time frames; exception**

- A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998. The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.
- B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame. An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.
- C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes. For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.

- D. In establishing time frames, agencies shall consider all of the following:
  1. The complexity of the licensing subject matter.
  2. The resources of the agency granting or denying the license.
  3. The economic impact of delay on the regulated community.
  4. The impact of the licensing decision on public health and safety.
  5. The possible use of volunteers with expertise in the subject matter area.
  6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
  7. The possible increased cooperation between the agency and the regulated community.
  8. Increased agency flexibility in structuring the licensing process and personnel.
- E. This article does not apply to licenses issued either:
  1. Pursuant to tribal state gaming compacts.
  2. Within seven days after receipt of initial application.
  3. By a lottery method.

**41-1074. Compliance with administrative completeness review time frame**

- A. An agency shall issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame.
- B. If an agency determines that an application for a license is not administratively complete, the agency shall include a comprehensive list of the specific deficiencies in the written notice provided pursuant to subsection A. If the agency issues a written notice of deficiencies within the administrative completeness time frame, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date that the agency receives the missing information from the applicant.
- C. If an agency does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time frame, the application is deemed administratively complete. If an agency issues a timely written notice of deficiencies, an application shall not be complete until all requested information has been received by the agency.

**41-1075. Compliance with substantive review time frame**

- A. During the substantive review time frame, an agency may make one comprehensive written request for additional information. The agency and applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information. If an agency issues a comprehensive written request or a supplemental request by mutual written agreement for additional information, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date that the agency receives the additional information from the applicant.
- B. By mutual written agreement, an agency and an applicant for a license may extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed twenty-five per cent of the overall time frame.

**41-1076. Compliance with overall time frame**

Unless an agency and an applicant for a license mutually agree to extend the substantive review time frame and the overall time frame pursuant to section 41-1075, an agency shall issue a written notice granting or denying a license within the overall time frame to an applicant. If an agency denies an application for a license, the agency shall include in the written notice at least the following information:

1. Justification for the denial with references to the statutes or rules on which the denial is based.
2. An explanation of the applicant's right to appeal the denial. The explanation shall include the number of days in which the applicant must file a protest challenging the denial and the name and telephone number of an agency contact person who can answer questions regarding the appeals process.

**C-7**

**DEPARTMENT OF ENVIRONMENTAL QUALITY (Expedited Rulemaking)**

Title 18, Chapter 2

**Amend:** R18-2-101, R18-2-404



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 14, 2022

**SUBJECT: DEPARTMENT OF ENVIRONMENTAL QUALITY (Expedited Rulemaking)**  
Title 18, Chapter 2, Department of Environmental Quality - Air Pollution Control

**Amend:** R18-2-101, R18-2-404

---

### **Summary:**

This expedited rulemaking from the Department of Environmental Quality (Department) relates to rules in Title 18, Chapter 2 regarding Air Pollution Control. Specifically, this expedited rulemaking seeks to amend two rules, R18-2-101 (Definitions) and R18-2-404 (Offset Standards). The Department seeks to amend R18-2-101 to make its rules consistent with the federal 1990 Clean Air Act Amendments (CAAA) and the federal Environmental Protection Agency's (EPA) July 19, 2021 correction of its rules to comply with a statutory change, which changed the definition of "major emitting facility" in relation to municipal incinerators. The Department seeks to amend R18-2-404 to remove the sentence authorizing ozone inter-precursor trading (IPT) as required under a 2021 federal appellate court decision. The Department further indicates that both of these amendments are required to avoid the imposition of a Federal Implementation Plan (FIP) and sanctions under the CAA.

The Department received approval to initiate this rulemaking on October 4, 2021 and final approval to submit it to the Council on March 18, 2022.

1. **Do the rules satisfy the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)?**

Yes. This rulemaking qualifies for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(6) because it amends rules that are outdated and no longer necessary for the operation of state government.

2. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The Department cites both general and specific statutory authority for the rules.

3. **Do the rules establish a new fee or contain a fee increase?**

No. The rules do not establish a new fee or contain a fee increase.

4. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Department did not receive any comments in conducting this expedited rulemaking.

5. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The Department did not make any changes to the rules between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Department indicates that corresponding federal law to these rules include the federal Clean Air Act (CAA) and corresponding EPA regulations. The Department states that the rules are not more stringent than corresponding federal law.

7. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

The Department indicates that the rules do not require a permit because they are meant to comply with the federal CAA New Source Review (NSR) regulations for any applicable new construction or major modification of a stationary source that falls under the Department's jurisdiction. The Department states that applicable federal law does not allow for the enforcement of major NSR requirements through the issuance of permits because it requires case-by-case, facility specific determinations.

**8. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department did not review or rely on a study in conducting this expedited rulemaking.

**9. Conclusion**

In this expedited rulemaking, the Department seeks to amend two rules to comply with applicable federal laws and regulations as well as a recent federal appellate court decision. If approved, the expedited rulemaking would be effective immediately upon the Department filing its Certificate of Approval and Notice of Final Expedited Rulemaking with the Secretary of State. Council staff recommends approval of this expedited rulemaking.



Douglas A. Ducey  
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY



Misael Cabrera  
Director

March 21, 2022

Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 N. 15<sup>th</sup> Ave., #305  
Phoenix, AZ 85007

Re: Rulemaking for Title 18. Environmental Quality, Chapter 2. Department of Environmental Quality-Air Pollution Control, Articles 1 and 4.

Dear Chair Sornsin:

The Arizona Department of Environmental Quality (ADEQ) hereby submits changes to Arizona Administrative Code (A.A.C) R18-2-101(23)(h) and R18-2-404(A) to the Governor's Regulatory Review Council (GRRC) for its consideration and approval at the Council meeting scheduled for May 3, 2022.

The following information is provided for your use in reviewing the enclosed rules for approval pursuant to A.R.S. § 41-1052 and A.A.C. R1-6-202:

## I. Information Required by A.A.C. R1-6-202(A)(1)

- The public record closed for all rules on January 31, 2022 at 5:00 p.m.
- Pursuant to A.R.S. § 41-1027(A)(6), this expedited rulemaking does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights of regulated persons. This rulemaking amends rules that are outdated and no longer necessary for operation of the state government, as they are inconsistent with applicable federal law. As described above, the definition of "major emitting facility" with regard to municipal incinerators in R18-2-101(23)(h) has been out of date since the enactment of the 1990 Clean Air Act Amendments, and the Environmental Protection Agency's July 2021 notice of corrections finally addressed the correction. Additionally, the sentence authorizing ozone inter-precursor trading in R18-2-404(A) was rendered obsolete under the Clean Air Act due to the *Sierra Club v. EPA*, 985 F.3d 1055 (D.C. Cir., 2021) ruling.
- The rulemaking activity does not relate to a five-year review report.
- The Department certifies that the preamble discloses reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule.

### Main Office

1110 W. Washington Street • Phoenix, AZ 85007  
(602) 771-2300

### Southern Regional Office

400 W. Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

[www.azdeq.gov](http://www.azdeq.gov)

printed on recycled paper

- A list of documents enclosed under A.A.C. R1-6-202(A)(1)(e), (A)(2)-(8), which are enclosed as electronic copies:
  - This cover letter.
  - The Notice of Final Expedited Rulemaking (NFERM), including the preamble, table of contents, and text of each rule.
  - ADEQ did not receive any written comments on the Notice of Proposed Expedited Rulemaking (NPERM). No public comments were received at the January 31, 2022 public hearing on the NPERM; therefore, no record or transcript of such testimony is included in this submittal.
  - ADEQ received no analysis regarding the rules' impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states; therefore, no such analysis is included in this submittal.
  - The rules amended by this rulemaking do not incorporate materials by reference; therefore, no such materials are included.
  - No statute was declared unconstitutional.
  - One electronic copy of each of the following is enclosed: the general and specific statutes authorizing the rules, including relevant statutory definitions: A.R.S. §§ 49-104(A)(1) and (A)(10), 49-404(A), 49-406, 49-425(A), and 49-426.
  - No term is defined in the rule by referring to another.

Thank you for your timely review and approval. Please contact Daniel Czecholinski, Division Director, Air Quality Division, 602-771-4655 or [czecholinski.daniel@azdeq.gov](mailto:czecholinski.daniel@azdeq.gov), if you have any questions.

Sincerely,



Misael Cabrera, P.E.  
Director

Enclosures

NOTICE OF FINAL EXPEDITED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

PREAMBLE

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

R18-2-101 Amend

R18-2-404 Amend

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

Authorizing statute: A.R.S. §§ 49-104(A)(1) and (A)(10), 49-404(A), and 49-406

Implementing statute: A.R.S. §§ 49-425(A), 49-426

**3. The effective date of the rules:**

May 3, 2022

**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 rule:**

Notice of Rulemaking Docket Opening: 27 A.A.R. 3051, December 31, 2021

Notice of Proposed Expedited Rulemaking Docket Opening: 27 A.A.R. 3032, December 31, 2021

**5. The agency's contact person who can answer questions about the rule making:**

Name: Zachary Dorn

Address: Arizona Department of Environmental Quality

Air Quality Division, AQIP Section

1110 W. Washington St.

Phoenix, AZ 85007

Telephone: (602) 771-4585 (This number may be reached in-state by dialing 1-800-234-5677 and entering the seven digit number.)

E-mail: dorn.zachary@azdeq.gov

**6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), to include an explanation about the rule making:**

**Summary**

The purpose of this Arizona Department of Environmental Quality (ADEQ) rulemaking is to address two issues related to the New Source Review (NSR) program. First, ADEQ amends Arizona Administrative Code (A.A.C.) Title 18, Chapter 2, Article 1, R18-2-101(23)(h) to conform ADEQ’s rules to the 1990 Clean Air Act Amendments (CAAA) and the U.S. Environmental Protection Agency’s (EPA) July 19, 2021 correction of its rules to comply with the statutory change, that changed the definition of a “major emitting facility” with regard to municipal incinerators. 86 FR 37,918 (July 19, 2021). Second, ADEQ amends A.A.C. Title 18, Chapter 2, Article 4, R18-2-404(A), to remove the sentence authorizing ozone inter-precursor trading (IPT) as required by *Sierra Club v. EPA*, 985 F.3d 1055 (D.C. Cir., 2021). Both of these amendments are required to avoid the imposition of a federal implementation plan (FIP) and sanctions under the federal Clean Air Act (CAA) § 179. *See also* CAA § 172 and 40 C.F.R. § 51.1314.

Pursuant to A.R.S. § 41-1027(A)(6), this expedited rulemaking does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights of regulated persons. This rulemaking amends rules that are outdated and no longer necessary for operation of the state government, as they are inconsistent with applicable federal law. As described above, the definition of “major emitting facility” with regard to municipal incinerators in R18-2-101(23)(h) has been out of date since the enactment of the 1990 CAAA, and EPA’s July 2021 notice of corrections finally addressed the correction. Additionally, the sentence authorizing ozone IPT in R18-2-404(A) was rendered obsolete under the CAA due to the 2021 *Sierra Club* ruling.

**Legal Background**

**CAA NSR**

Under CAA § 110(a)(1), each state is obligated to submit a “plan which provides for implementation, maintenance, and enforcement of” the national ambient air quality standards (NAAQS). The CAA goes on to require that state implementation plans (SIPs):

Include a program to provide for the . . . regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of [Title I of the CAA].

CAA § 110(a)(2)(C). State and federal regulations adopted under this section are commonly referred to as “new source review” programs because they apply to newly constructed and modified, as opposed to existing, sources. The CAA divides NSR requirements into those that apply to attainment areas (Part C requirements) and those that apply to nonattainment areas (Part D requirements). This rulemaking focuses on Part D of Title I of the CAA.

Part D of Title I of the CAA requires states to establish an NSR program for major sources and modifications in nonattainment areas (NAAs). This program is known as “Nonattainment New Source Review” (NNSR). Under Subpart 1 of Part D, a major source is defined as any source that emits, or has the potential to emit, 100 tons per year or more of a pollutant for which the area has been designated nonattainment.

Permit applicants subject to NNSR requirements under Part D must demonstrate that a major source or modification will comply with the lowest achievable emission rate (LAER) and that reductions in emissions from the same source or other sources will offset any emissions increases from the new or modified source. Subpart 2 of Part D establishes specific offset requirements for ozone precursors in ozone nonattainment areas.

### **CAA Sanctions**

Under CAA § 172, ADEQ must submit a SIP that, among other things, addresses the requirements of the NNSR program. 40 C.F.R. § 51.1314. A SIP revision addressing NNSR requirements must be submitted to EPA 36 months after the effective date an area is designated as nonattainment for the ozone NAAQS. *Id.*

If Arizona fails to submit a SIP revision satisfying CAA § 172, or if EPA disapproves any element, such as NNSR, of a plan submitted under Title I, Part D of the CAA relating to nonattainment areas, and the plan deficiencies are not corrected within 18 months after the effective date of the disapproval, major sources subject to NNSR will have to offset emissions increases at a ratio of 2 to 1, as opposed to a ratio of 1:1 if a SIP revision satisfies CAA § 172. 42 U.S.C. § 7509(a), (b)(2); 40 CFR § 52.31(d)(1). If the deficiencies remain uncorrected for an additional six months, the state loses most federal highway funds in the affected area. 42 USC § 7509(a), (b)(1); 40 CFR § 52.31(d)(1). If imposed, the sanctions will apply to nonattainment areas under ADEQ’s jurisdiction and the pollutants covered by the plan and will remain in effect until EPA finds that a revised plan corrects the deficiencies. 40 CFR § 52.31(b)(3), (d)(2), (5).

Additionally, EPA is required to adopt a federal implementation plan (FIP) within twenty-four months following the disapproval of any SIP if the deficiencies are not corrected and approved. 42 U.S.C. § 7410(c). ADEQ therefore must correct all deficiencies with its NSR rules to avoid a disapproval, and potential sanctions.

### **Factual Background**

On June 4, 2018, EPA designated the Yuma and the Phoenix-Mesa (including portions of Gila and Pinal counties) NAAs as marginal NAAs for the 2015 ozone NAAQS. 83 FR 24,776 (June 4, 2018). As a result of

these designations, ADEQ must submit a SIP revision that, among other things, addresses the requirements of the NNSR program (including the prohibition of IPT) by August 3, 2021. CAA § 172; 40 C.F.R. § 51.1314. Due to the uncertainty associated with IPT litigation described below, ADEQ did not address the IPT requirement prior to the August 3, 2021 date. Now that the litigation concluded, ADEQ is amending these rule amendments to resolve this outstanding issue. If Arizona fails to submit this SIP revision, or EPA disapproves this SIP revision, and the failure or disapproval is not cured within the time period specified by the CAA, the Yuma NAA and the Gila and Pinal portions of the Phoenix-Mesa Ozone NAA may become subject to the sanctions described above. CAA § 179. Under A.R.S. § 49-402(A), ADEQ has original jurisdiction over all sources in a county with no air quality permitting program and over major sources in a county “that has not received approval from the administrator [of EPA] for new source review and prevention of significant deterioration [PSD].”

Maricopa County has a SIP-approved NSR program and delegated authority to administer PSD under 40 C.F.R. § 52.21. Pinal County has a SIP-approved PSD program, but lacks EPA approval for NNSR. Gila and Yuma Counties have no air quality permit programs.

ADEQ thus has NNSR permitting jurisdiction over major sources of ozone precursors in the Gila and Pinal portions of the Phoenix-Mesa nonattainment area and in the Yuma nonattainment area. ADEQ’s NNSR program therefore must meet all CAA NNSR requirements, including the prohibition of IPT, in order for the ozone nonattainment area plans for those areas to be fully approvable.

**The 1990 CAAA and a recent notice of correction by EPA require ADEQ to change its definition of “municipal incinerator.”**

On July 19, 2021, EPA issued a final rule that amended several NSR regulations to correct typographical and grammatical errors, removing court vacated rule language, removing or updating outdated or incorrect cross references, conforming provisions to changes in the 1990 CAAA and removing outdated grandfathering or transitional exemptions. 86 FR 37,918 (July 19, 2021). Among these changes, EPA amended its NSR regulations to reflect a change to the statutory definition of “major emitting facility” for municipal incinerators that occurred in the 1990 CAAA. *Id.* at 37,922. This statutory change lowered the charging capacity threshold for qualifying municipal incinerators from 250 tons of refuse per day to 50 tons per day. *Id.* As this requirement is part of NNSR, ADEQ must make this change to A.A.C. R18-2-101(23)(h) to avoid the risk of sanctions.

**A final, binding decision by the D.C. Circuit Court of Appeals requires ADEQ to remove ozone IPT from its rules.**

In 2008, EPA promulgated a new NAAQS for ozone, setting the standard at 75 ppb. 73 FR 16,436 (Mar. 27, 2008).

In March 2015, EPA promulgated a rule implementing the 2008 ozone NAAQS, which included the IPT program. 80 FR 12,264 (Mar. 6, 2015). IPT allowed the offset requirement to be satisfied by trading reductions in emissions of ozone precursors (volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>)). Because reductions in the emissions of one precursor are not always equivalent in terms of the level of atmospheric ozone reduced, the IPT rule required states to establish appropriate trading ratios.

Several petitioners challenged various portions of this 2015 implementation rule and the D.C. Circuit Court of Appeals resolved all but one of these challenges in *South Coast Air Quality Management District v. EPA*. 882 F.3d 1137 (D.C. Cir., 2018) (*South Coast II*). The one remaining challenge related to the IPT program. While the case was pending, EPA granted an administrative petition to reconsider the IPT program. As a result of the administrative petition the *South Coast II* Court severed the challenge to the IPT program, leaving it unresolved. The pending parts of this case were eventually consolidated with a subsequent law suit, challenging the 2018 ozone implementation rule discussed below.

In October 2015, EPA promulgated a new NAAQS for ozone, lowering the standard to 70 ppb. 80 FR 65,292 (Oct. 26, 2015).

On February 10, 2017, ADEQ amended R18-2-404(A), among other rules, to allow for ozone IPT in order to comply with federal requirements, including but not limited to the 2008 ozone NAAQS implementation rule. 23 A.A.R. 333 (Feb. 10, 2017).

On December 6, 2018, EPA promulgated its final implementation rule for the 2015 ozone NAAQS. 83 FR 62,998 (Dec. 8, 2018). This rule included IPT for ozone precursors, NO<sub>x</sub> and VOCs. *Id.* at 63,016. This rule was subsequently challenged in the D.C. Circuit Court of Appeals.

On January 29, 2021, the D.C. Circuit Court of Appeals vacated the IPT program, as a part of EPA's implementation of the 2015 ozone NAAQS. *Sierra Club v. EPA*, 985 F.3d 1055 (D.C. Cir., 2021). The Court held that EPA's IPT program violated the unambiguous language of the CAA. *Id.* Therefore, to comply with both the NSR requirements (40 C.F.R. § 51.1314) and the *Sierra Club v. EPA* ruling, ADEQ is required to remove the ozone IPT program from its rules.

On or before April 29, 2021, the last day for EPA to petition the U.S. Supreme Court to review the D.C. Circuit Court's decision, EPA did not file a petition for certiorari, and therefore *Sierra Club v. EPA* ruling is no longer appealable. 28 U.S.C. § 2101(c). Therefore, ADEQ amends R18-2-404(A) to remove the language allowing the inter-precursor trading of ozone precursors (NO<sub>x</sub> and VOCs) at this time because the litigation is resolved.

**Section by Section explanation of rule changes:**

- R18-2-101 Amend the definition of “municipal incinerator” (R18-2-101(23)(h)) to change the charging capacity from two hundred and fifty (250) tons per day to fifty (50) tons per day.
- R18-2-404 Amend R18-2-404(A) to remove the ozone IPT program.

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

Not applicable.

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

Not applicable.

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

Not applicable. The agency is exempt from the requirements to prepare and file an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

**10. A description of any changes between the proposed expediting rule making, including supplemental notices, and the final expedited rule making:**

No changes were made between the proposed expedited rulemaking and the final expedited rulemaking.

**11. Agency’s summary of the public or stakeholder comments or objections made about the expedited rule making and the agency response to the comments:**

ADEQ did not receive public stakeholder comments or objections about the expedited 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 statutes applicable specifically to ADEQ or this specific rulemaking.

**a. Whether the rule requires a permit, license, or agency authorization under A.R.S. § 41-1037(A),**

**whether a general permit is used and if not, the reasons why a general permit is not used:**

This rule amendment will not require any permits as it is to comply with CAA NSR regulations for any applicable new construction or major modification of a stationary source that falls under ADEQ's jurisdiction. Federal law does not allow for the enforcement of major NSR requirements through the issuance of permits, because major NSR requires case-by-case, facility specific determinations.

**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 federal CAA and implementing regulations adopted by EPA apply to the subject of this rule, as described in section 5 above. This rulemaking is no more stringent than required by federal law.

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

Not applicable.

**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 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 ext was changed between the emergency and the final rule making packages:**

The rules were not previously made as emergency rules.

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

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR POLLUTION CONTROL**

**ARTICLE 1. GENERAL**

Section

R18-2-101. Definitions

**ARTICLE 4. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES**

Section

R18-2-404. Offset Standards

**ARTICLE 1. GENERAL**

**R18-2-101. Definitions**

The following definitions apply to this Chapter. Where the same term is defined in this Section and in the definitions Section for an Article of this Chapter, the Article-specific definition shall apply.

1. "Act" means the Clean Air Act of 1963 (P.L. 88-206; 42 U.S.C. 7401 through 7671q) as amended through December 31, 2011 (and no future editions).
2. "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in subsections (2)(a) through (e), except that this definition shall not apply for calculating whether a significant emissions increase as defined in R18-2-401 has occurred, or for establishing a plantwide applicability limitation as defined in R18-2-401. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
  - a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.
  - b. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
  - c. For any emissions unit that is or will be located at a source with a Class I permit and has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.
  - d. For any emissions unit that is or will be located at a source with a Class II permit and has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.

- e. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
3. “Administrator” means the Administrator of the United States Environmental Protection Agency.
4. “Affected facility” means, with reference to a stationary source, any apparatus to which a standard is applicable.
5. “Affected source” means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act.
6. “Affected state” means any state whose air quality may be affected by a source applying for a permit, permit revision, or permit renewal and that is contiguous to Arizona or that is within 50 miles of the permitted source.
7. “Afterburner” means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion.
8. “Air contaminants” means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, wind-borne matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.
9. “Air curtain destructor” means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
10. *“Air pollution” means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in sufficient quantities, which either alone or in connection with other substances by reason of their concentration and duration are or tend to be injurious to human, plant or animal life, or cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the director. A.R.S. § 49-421(2).*
11. “Air pollution control equipment” means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.
12. “Air quality control region” (AQCR) means an area so designated by the Administrator pursuant to Section 107 of the Act and includes the following regions in Arizona:
  - a. Maricopa Intrastate Air Quality Control Region which is comprised of the County of Maricopa.
  - b. Pima Intrastate Air Quality Control Region which is comprised of the County of Pima.
  - c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo, and Yavapai.

- d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave, and Yuma.
  - e. Central Arizona Intrastate Air Quality Control Region which encompasses the counties of Gila and Pinal.
  - f. Southeast Arizona Intrastate Air Quality Control Region which encompasses the counties of Cochise, Graham, Greenlee, and Santa Cruz.
13. "Allowable emissions" means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:
- a. The applicable standards as set forth in 40 CFR 60, 61 and 63;
  - b. The applicable emissions limitations approved into the state implementation plan, including those with a future compliance date; or,
  - c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.
14. "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
15. "Applicable implementation plan" means those provisions of the state implementation plan approved by the Administrator or a federal implementation plan promulgated for Arizona or any portion of Arizona in accordance with Title I of the Act.
16. "Applicable requirement" means any of the following:
- a. Any federal applicable requirement.
  - b. Any other requirement established pursuant to this Chapter or A.R.S. Title 49, Chapter 3.
17. "Arizona Testing Manual" means sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).
18. "ASTM" means the American Society for Testing and Materials.
19. "Attainment area" means any area that has been identified in regulations promulgated by the Administrator as being in compliance with national ambient air quality standards.
20. *"Begin actual construction" means, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.*
- a. For purposes of title I, parts C and D and section 112 of the clean air act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the clean air act, these activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures but do not include any of the following, subject to subsection (20)(c):

- i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil.
  - ii. Installation of access roads, driveways and parking lots.
  - iii. Installation of ancillary structures, including fences, office buildings and temporary storage structures, that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.
  - iv. Ordering and onsite storage of materials and equipment.
- b. For purposes other than those identified in subsection (20)(a), these activities do not include any of the following, subject to subsection (20)(c):
- i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil and earthwork cut and fill for foundations.
  - ii. Installation of access roads, parking lots, driveways and storage areas.
  - iii. Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment.
  - iv. Ordering and onsite storage of materials and equipment.
  - v. Installation of underground pipework, including water, sewer, electric and telecommunications utilities.
  - vi. Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and platforms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.
- c. An applicant's performance of any activities that are excluded from the definition of "begin actual construction" under subsection (20)(a) or (b) shall be at the applicant's risk and shall not reduce the applicant's obligations under this Chapter. The director shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activities allowed under subsection (20)(a) or (b) had not occurred. A.R.S. § 49-401.01(7).
21. "Best available control technology" (BACT) means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major source or major modification, taking into account energy, environmental, and economic impact and other costs, determined by the Director in accordance with R18-2-406(A)(4) to be achievable for such source or modification.
22. "Btu" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water 1°F.
23. "Categorical sources" means the following classes of sources:
- a. Coal cleaning plants with thermal dryers;

- b. Kraft pulp mills;
  - c. Portland cement plants;
  - d. Primary zinc smelters;
  - e. Iron and steel mills;
  - f. Primary aluminum ore reduction plants;
  - g. Primary copper smelters;
  - h. Municipal incinerators capable of charging more than ~~250~~ 50 tons of refuse per day;
  - i. Hydrofluoric, sulfuric, or nitric acid plants;
  - j. Petroleum refineries;
  - k. Lime plants;
  - l. Phosphate rock processing plants;
  - m. Coke oven batteries;
  - n. Sulfur recovery plants;
  - o. Carbon black plants using the furnace process;
  - p. Primary lead smelters;
  - q. Fuel conversion plants;
  - r. Sintering plants;
  - s. Secondary metal production plants;
  - t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;
  - u. Fossil-fuel boilers, combinations thereof, totaling more than 250 million Btus per hour heat input;
  - v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
  - w. Taconite ore processing plants;
  - x. Glass fiber processing plants;
  - y. Charcoal production plants;
  - z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million Btus per hour heat input.
24. "Categorically exempt activities" means any of the following:
- a. Any combination of diesel-, natural gas- or gasoline-fired engines with cumulative power equal to or less than 145 horsepower.
  - b. Natural gas-fired engines with cumulative power equal to or less than 155 horsepower.
  - c. Gasoline-fired engines with cumulative power equal to or less than 200 horsepower.
  - d. Any of the following emergency or stand-by engines used for less than 500 hours in each calendar year, provided the permittee keeps records documenting the hours of operation of the engines:

- i. Any combination of diesel-, natural gas- or gasoline-fired emergency engines with cumulative power equal to or less than 2,500 horsepower.
    - ii. Natural gas-fired emergency engines with cumulative power equal to or less than 2,700 horsepower.
    - iii. Gasoline-fired emergency engines with cumulative power equal to or less than 3,700 horsepower.
  - e. Any combination of boilers with a cumulative maximum design heat input capacity of less than 10 million Btu/hr.
25. “CFR” means the Code of Federal Regulations, amended as of July 1, 2011, (and no future editions), with standard references in this Chapter by Title and Part, so that “40 CFR 51” means Title 40 of the Code of Federal Regulations, Part 51.
26. “Charge” means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel.
27. “Clean coal technology” means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, that was not in widespread use as of November 15, 1990.
28. “Clean coal technology demonstration project” means a project using funds appropriated under the heading “Department of Energy - Clean Coal Technology,” up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.
29. “Coal” means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D-388-91, (Classification of Coals by Rank).
30. “Combustion” means the burning of matter.
31. “Commence” means, as applied to construction of a source, or a major modification as defined in Article 4 of this Chapter, that the owner or operator has all necessary preconstruction approvals or permits and either has:
- a. Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time; or
  - b. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
32. “Construction” means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in emissions.

33. "Continuous monitoring system" means a CEMS, CERMS, or CPMS.
34. "Continuous emissions monitoring system" or "CEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and provide, on a continuous basis, a permanent record of emissions.
35. "Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).
36. "Continuous parameter monitoring system" or "CPMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process or control device operational parameters (for example, control device secondary voltages and electric currents) or other information (for example, gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations) and to provide, on a continuous basis, a permanent record of monitored values.
37. "Controlled atmosphere incinerator" means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.
38. "*Conventional air pollutant*" means any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard. A.R.S. § 49-401.01(12).
39. "*Department*" means the Department of Environmental Quality. A.R.S. § 49-101(2)
40. "*Director*" means the director of environmental quality who is also the director of the department. A.R.S. § 49-101(3)
41. "Discharge" means the release or escape of an effluent from a source into the atmosphere.
42. "Dust" means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or storage of materials in the solid state.
43. "Dust suppressant" means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.
44. "Effluent" means any air contaminant which is emitted and subsequently escapes into the atmosphere.
45. "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
46. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.
47. "Emission standard" or "emission limitation" means a requirement established by the state, a local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe

equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

48. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant and includes an electric steam generating unit.
49. "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated under R18-2-311(D) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
50. "Excess emissions" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.
51. "Federal applicable requirement" means any of the following (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):
  - a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
  - b. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act.
  - c. Any standard or other requirement under section 111 of the Act, including 111(d).
  - d. Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act.
  - e. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder and incorporated pursuant to R18-2-333.
  - f. Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act.
  - g. Any standard or other requirement governing solid waste incineration, under section 129 of the Act.
  - h. Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act.
  - i. Any standard or other requirement for tank vessels under section 183(f) of the Act.
  - j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act.
  - k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.
  - l. Any national ambient air quality standard or maximum increase allowed under R18-2-218 or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

52. "Federal Land Manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.
53. "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:
  - a. The requirements of the new source performance standards and national emission standards for hazardous air pollutants.
  - b. The requirements of such other state or county rules or regulations approved by the Administrator, including the requirements of state and county operating and new source review permit and registration programs that have been approved by the Administrator. Notwithstanding this subsection, the condition of any permit or registration designated as being enforceable only by the state is not federally enforceable.
  - c. The requirements of any applicable implementation plan.
  - d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements that are included in a permit pursuant to R18-2-306.01 or R18-2-306.02.
54. "Federally listed hazardous air pollutant" means a pollutant listed pursuant to R18-2-1701(9).
55. "Final permit" means the version of a permit issued by the Department after completion of all review required by this Chapter.
56. "Fixed capital cost" means the capital needed to provide all the depreciable components.
57. "Fuel" means any material which is burned for the purpose of producing energy.
58. "Fuel burning equipment" means any machine, equipment, incinerator, device or other article, except stationary rotating machinery, in which combustion takes place.
59. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
60. "Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.
61. "Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.
62. "Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in R18-2-332.
63. "Hazardous air pollutant" means any federally listed hazardous air pollutant.
64. "Heat input" means the quantity of heat in terms of Btus generated by fuels fed into the fuel burning equipment under conditions of complete combustion.

65. “Incinerator” means any equipment, machine, device, contrivance or other article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material.
66. “Indian governing body” means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
67. “Indian reservation” means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
68. “Insignificant activity” means any of the following activities:
- a. Liquid Storage and Piping
    - i. Petroleum product storage tanks containing the following substances, provided the applicant lists and identifies the contents of each tank with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such tank: diesel fuels and fuel oil in storage tanks with capacity of 40,000 gallons or less, lubricating oil, transformer oil, and used oil.
    - ii. Gasoline storage tanks with capacity of 10,000 gallons or less.
    - iii. Storage and piping of natural gas, butane, propane, or liquified petroleum gas, provided the applicant lists and identifies the contents of each stationary storage vessel with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such vessel.
    - iv. Piping of fuel oils, used oil and transformer oil, provided the applicant includes a system description.
    - v. Storage and handling of drums or other transportable containers where the containers are sealed during storage, and covered during loading and unloading, including containers of waste and used oil regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992(k). Permit applicants must provide a description of material in the containers and the approximate amount stored.
    - vi. Storage tanks of any size containing exclusively soaps, detergents, waxes, greases, aqueous salt solutions, aqueous solutions of acids that are not regulated air pollutants, or aqueous caustic solutions, provided the permit applicant specifies the contents of each storage tank with a volume of 350 gallons or more.
    - vii. Electrical transformer oil pumping, cleaning, filtering, drying and the re-installation of oil back into transformers.
  - b. Internal combustion engine-driven compressors, internal combustion engine-driven electrical generator sets, and internal combustion engine-driven water pumps used for less than 500 hours per

calendar year for emergency replacement or standby service, provided the permittee keeps records documenting the hours of operation of this equipment.

c. Low Emitting Processes

- i. Batch mixers with rated capacity of 5 cubic feet or less.
- ii. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.
- iii. Powder coating operations.
- iv. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
- v. Blast-cleaning equipment using a suspension of abrasive in water and any exhaust system or collector serving them exclusively.
- vi. Plastic pipe welding.

d. Site Maintenance

- i. Housekeeping activities and associated products used for cleaning purposes, including collecting spilled and accumulated materials at the source, including operation of fixed vacuum cleaning systems specifically for such purposes.
- ii. Sanding of streets and roads to abate traffic hazards caused by ice and snow.
- iii. Street and parking lot striping.
- iv. Architectural painting and associated surface preparation for maintenance purposes at industrial or commercial facilities.

e. Sampling and Testing

- i. Noncommercial (in-house) experimental, analytical laboratory equipment which is bench scale in nature, including quality control/quality assurance laboratories supporting a stationary source and research and development laboratories.
- ii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units.

f. Ancillary Non-Industrial Activities

- i. General office activities, such as paper shredding, copying, photographic activities, and blueprinting, but not to include incineration.
- ii. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use.

- iii. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition.
  - g. Miscellaneous Activities
    - i. Installation and operation of potable, process and waste water observation wells, including drilling, pumping, filtering apparatus.
    - ii. Transformer vents.
- 69. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.
- 70. "Lead" means elemental lead or alloys in which the predominant component is lead.
- 71. "Lime hydrator" means a unit used to produce hydrated lime product.
- 72. "Lime plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.
- 73. "Lime product" means any product produced by the calcination of limestone.
- 74. "Major modification" is defined as follows:
  - a. A major modification is any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source.
  - b. Any emissions increase or net emissions increase that is significant for nitrogen oxides or volatile organic compounds is significant for ozone.
  - c. For the purposes of this definition, none of the following is a physical change or change in the method of operation:
    - i. Routine maintenance, repair, and replacement;
    - ii. Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 - 825r;
    - iii. Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
    - iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
    - v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, any of the following:
      - (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 21, 1976, unless the change would be prohibited under

- any federally enforceable permit condition established after December 12, 1976 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter; or
- (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under R18-2-403;
  - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 21, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
- vi. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, any of the following:
- (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter;
  - (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under R18-2-406; or
  - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
- vii. Any change in ownership at a stationary source;
- viii. [Reserved.]
- ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
- (1) The SIP, and
  - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;
- x. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis; and
- xi. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
- d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of R18-2-412 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification in R18-2-401(20) shall apply.

75. "Major source" means:
- a. A major source as defined in R18-2-401.
  - b. A major source under section 112 of the Act:
    - i. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emission 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Article 11 of this Chapter. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
    - ii. For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
  - c. A major stationary source, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to a section 302(j) category.
76. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal and usual manner, but does not include failures that are caused by poor maintenance, careless operation or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care.
77. "Minor source" means a source of air pollution which is not a major source for the purposes of Article 4 of this Chapter and over which the Director, acting pursuant to A.R.S. § 49-402(B), has asserted jurisdiction.
78. "Minor source baseline area" means the air quality control region in which the source is located.
79. "*Mobile source*" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest. A.R.S. § 49-401.01(23).
80. "*Modification*" or "*modify*" means a physical change in or change in the method of operation of a source that increases the emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or that results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source's potential to emit before and after the modification. The following exemptions apply:

- a. A physical or operational change does not include routine maintenance, repair or replacement.
  - b. An increase in the hours of operation or if the production rate is not considered an operational change unless such increase is prohibited under any permit condition that is legally and practically enforceable by the department.
  - c. A change in ownership at a source is not considered a modification. A.R.S. § 49-401.01(24).
81. “Monitoring device” means the total equipment, required under the applicable provisions of this Chapter, used to measure and record, if applicable, process parameters.
82. “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on public highways.
83. “Multiple chamber incinerator” means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.
84. “Natural conditions” includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.
85. “*National ambient air quality standard*” means the ambient air pollutant concentration limits established by the Administrator pursuant to section 109 of the Act. A.R.S. § 49-401.01(25).
86. “National emission standards for hazardous air pollutants” or “NESHAP” means standards adopted by the Administrator under section 112 of the Act.
87. “Necessary preconstruction approvals or permits” means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.
88. “Net emissions increase” means:
- a. The amount by which the sum of subsections (88)(a)(i) and (ii) exceeds zero:
    - i. The increase in emissions of a regulated NSR pollutant from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to R18-2-402(D); and
    - ii. Any other increases and decreases in actual emissions of the regulated NSR pollutant at the source that are contemporaneous with the particular change and are otherwise creditable.
    - iii. For purposes of calculating increases and decreases in actual emissions under subsection (88)(a)(ii), baseline actual emissions shall be determined as provided in the definition of baseline actual emissions in R18-2-401(2), except that R18-2-401(2)(a)(iii) and (b)(iv) shall not apply.
  - b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
    - i. The date five years before a complete application for a permit or permit revision authorizing the particular change is submitted or actual construction of the particular change begins, whichever occurs earlier, and
    - ii. The date that the increase from the particular change occurs.

- c. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit or permit revision under R18-2-403, which permit is in effect when the increase in actual emissions from the particular change occurs. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit under R18-2-406, which permit is in effect when the increase in actual emissions from the particular change occurs.
  - d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, PM<sub>10</sub>, or PM<sub>2.5</sub> which occurs before the applicable minor source baseline date, as defined in R18-2-218, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
  - e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
  - f. A decrease in actual emissions is creditable only to the extent that it satisfies all of the following conditions:
    - i. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
    - ii. It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
    - iii. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
    - iv. The emissions unit was actually operated and emitted the specific pollutant.
    - v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, the Director has not relied on it in issuing any permit, permit revision, or registration under Article 4, R18-2-302.01, (or) R18-2-334, and the state has not relied on it in demonstrating attainment or reasonable further progress.
  - g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit, as defined in R18-2-401(24), that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
  - h. Subsection (2)(a) shall not apply for determining creditable increases and decreases.
89. "New source" means any stationary source of air pollution which is subject to a new source performance standard.
90. "New source performance standards" or "NSPS" means standards adopted by the Administrator under section 111(b) of the Act.

91. “Nitric acid plant” means any facility producing nitric acid 30% to 70% in strength by either the pressure or atmospheric pressure process.
92. “Nitrogen oxides” means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.
93. “Nonattainment area” means an area so designated by the Administrator acting pursuant to section 107 of the Act as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.
94. “Nonpoint source” means a source of air contaminants which lacks an identifiable plume or emission point.
95. “Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
96. “Operation” means any physical or chemical action resulting in the change in location, form, physical properties, or chemical character of a material.
97. “Owner or operator” means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source.
98. “Particulate matter” means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.
99. “Particulate matter emissions” means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
100. *“Permitting authority” means the department or a county department, agency or air pollution control district that is charged with enforcing a permit program adopted pursuant to A.R.S. § 49-480(A). A.R.S. § 49-401.01(28).*
101. *“Permitting exemption thresholds” for a regulated minor NSR pollutant means the following:*

Regulated Air Pollutant	Emission Rate in tons
PM <sub>2.5</sub> (primary emissions and precursors are set by rule)	5
PM <sub>10</sub>	7.5
SO <sub>2</sub>	20
NO <sub>x</sub>	20
VOC	20
CO	50
Pb	0.3

102. “Person” means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.
103. *“Planning agency” means an organization designated by the governor pursuant to 42 U.S.C. 7504. A.R.S. § 49-401.01(29).*

104. “PM<sub>2.5</sub>” means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53.
105. “PM<sub>10</sub>” means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.
106. “PM<sub>10</sub> emissions” means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
107. “Plume” means visible effluent.
108. “Pollutant” means an air contaminant the emission or ambient concentration of which is regulated pursuant to this Chapter.
109. “Portable source” means any stationary source that is capable of being operated at more than one location.
110. “Potential to emit” or “potential emission rate” means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally and practically enforceable by the Department or a county under A.R.S. Title 49, Chapter 3; any rule, ordinance, order or permit adopted or issued under A.R.S. Title 49, Chapter 3 or the state implementation plan.
111. “Predictive Emissions Monitoring System” or “PEMS” means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.
112. “Primary ambient air quality standards” means the ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Article 2 of this Chapter.
113. “Process” means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.
114. “Project” means a physical change in, or change in the method of operation of, an existing major source.

115. “Proposed final permit” means the version of a Class I permit or Class I permit revision that the Department proposes to issue and forwards to the Administrator for review in compliance with R18-2-307(A). A proposed final permit constitutes a final and enforceable authorization to begin actual construction of, but not to operate, a new Class I source or a modification to a Class I source.
116. “Proposed permit” means the version of a permit for which the Director offers public participation under R18-2-330 or affected state review under R18-2-307(D).
117. “Reactivation of a very clean coal-fired electric utility steam generating unit” means any physical change or change in the method of operation associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation if the unit:
- a. Has not been in operation for the two-year period before enactment of the Clean Air Act Amendments of 1990, and the emissions from the unit continue to be carried in the Director’s emissions inventory at the time of enactment;
  - b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
  - c. Is equipped with low-NO<sub>x</sub> burners before commencement of operations following reactivation; and
  - d. Is otherwise in compliance with the Act.
118. “Reasonable further progress” means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.
119. “Reasonably available control technology” (RACT) means devices, systems, process modifications, work practices or other apparatus or techniques that are determined by the Director to be reasonably available taking into account:
- a. The necessity of imposing the controls in order to attain and maintain a national ambient air quality standard;
  - b. The social, environmental, energy and economic impact of the controls;
  - c. Control technology in use by similar sources; and
  - d. The capital and operating costs and technical feasibility of the controls.
120. “Reclaiming machinery” means any machine, equipment device or other article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.
121. “Reference method” means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in 18 A.A.C. 2, Appendix 2.

122. “Regulated air pollutant” means any of the following:
- a. Any conventional air pollutant.
  - b. Nitrogen oxides and volatile organic compounds.
  - c. Any pollutant that is subject to a new source performance standard.
  - d. Any pollutant that is subject to a national emission standard for hazardous air pollutants or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r), including the following:
    - i. Any pollutant subject to requirements under section 112(j) of the act. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and
    - ii. Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement.
  - e. Any Class I or II substance subject to a standard promulgated under title VI of the Act.
123. “Regulated minor NSR pollutant” means any pollutant for which a national ambient air quality standard has been promulgated and the following precursors for such pollutants:
- a. VOC and nitrogen oxides as precursors to ozone.
  - b. Nitrogen oxides and sulfur dioxide as precursors to PM<sub>2.5</sub>.
124. “Regulated NSR pollutant” is defined as follows:
- a. For purposes of determining the applicability of R18-2-403 through R18-2-405 and R18-2-411, regulated NSR pollutant means any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this subsection as a constituent of or precursor to such pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of the regulation of the general pollutant. Precursors for purposes of NSR are the following:
    - i. Volatile organic compounds and nitrogen oxides are precursors to ozone in all areas.
    - ii. Sulfur dioxide is a precursor to PM<sub>2.5</sub> in all areas.
    - iii. Nitrogen oxides are precursors to PM<sub>2.5</sub> in all areas.
    - iv. VOC and ammonia are precursors to PM<sub>2.5</sub> in PM<sub>2.5</sub> nonattainment areas.
  - b. For all other purposes, regulated NSR pollutant means the pollutants identified in subsection (a) and the following:
    - i. Any pollutant that is subject to any new source performance standard except greenhouse gases as defined in 40 CFR 86.1818-12(a).
    - ii. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act as of July 1, 2011.

- iii. Any pollutant that is otherwise subject to regulation under the Act, except greenhouse gases as defined in 40 CFR 86.1818-12(a).
  - c. Notwithstanding subsections (124)(a) and (b), the term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.
  - d. PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On and after January 1, 2011, condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> in permits issued under Article 4.
125. "Repowering" means:
- a. Replacing an existing coal-fired boiler with one of the following clean coal technologies:
    - i. Atmospheric or pressurized fluidized bed combustion;
    - ii. Integrated gasification combined cycle;
    - iii. Magnetohydrodynamics;
    - iv. Direct and indirect coal-fired turbines;
    - v. Integrated gasification fuel cells; or
    - vi. As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above technologies; and
    - vii. Any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
  - b. Repowering also includes any oil, gas, or oil and gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the United States Department of Energy.
  - c. The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection (and) is granted an extension under section 409 of the Act.
126. "Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.
127. "Secondary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as specified in Article 2 of this Chapter.
128. "Secondary emissions" means emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or

modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

129. “Section 302(j) category” means:

- a. Any of the classes of sources listed in the definition of categorical source in subsection (23); or
- b. Any category of affected facility which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

130. “Shutdown” means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

131. “Significant” means, in reference to a significant emissions increase, a net emissions increase, a stationary source’s potential to emit or a stationary source’s maximum capacity to emit with any elective limits as defined in R18-2-301(13):

- a. A rate of emissions of conventional pollutants that would equal or exceed any of the following:

Pollutant	Emissions Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
PM <sub>10</sub>	15 tpy
PM <sub>2.5</sub>	10 tpy of direct PM <sub>2.5</sub> emission; 40 tpy of nitrogen dioxide emissions.
Ozone	40 tpy of VOC or nitrogen oxide
Lead	0.6 tpy

- b. For purposes of determining the applicability of R18-2-302(B)(2) or R18-2-406, in addition to the rates specified in subsection (131)(a), a rate of emissions of non-conventional pollutants that would equal or exceed any of the following:

Pollutant	Emissions Rate
Particulate matter	25 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H <sub>2</sub> S)	10 tpy
Total reduced sulfur (including H <sub>2</sub> S)	10 tpy
Reduced sulfur compounds (including H <sub>2</sub> S)	10 tpy
Municipal waste combustor organic compounds (total tetra-through octa-chlorinated dioxins and dibenzofurans)	3.5 x 10 <sup>-6</sup> tpy
Municipal waste combustor metals (total particulate matter)	15 tpy
Municipal waste combustor acid gases (total sulfur dioxide and hydrogen chloride)	40 tpy
Municipal solid waste landfill emissions (total nonmethane organic compounds)	50 tpy

Any regulated NSR pollutant not in this subsection (or) subsection for ammonia.	Any emission r
---	----------------

- c. In ozone nonattainment areas classified as serious or severe, the emission rate for nitrogen oxides or VOC determined under R18-2-405.
  - d. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
  - e. In PM<sub>2.5</sub> nonattainment areas, an emission rate that would equal or exceed 40 tons per year of VOC as a precursor of PM<sub>2.5</sub>.
  - f. In PM<sub>2.5</sub> nonattainment areas, for purposes of determining the applicability of R18-2-403 or R18-2-404, an emission rate that would equal or exceed 40 tons per year of ammonia, as a precursor to PM<sub>2.5</sub>. This subsection shall take effect on the effective date of the Administrator's action approving it as part of the state implementation plan.
  - g. Notwithstanding the emission rates listed in subsection (131)(a) or (b), for purposes of determining the applicability of R18-2-406, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than 1 µg/m<sup>3</sup> (24-hour average).
132. "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in this Section for that pollutant.
133. "Smoke" means particulate matter resulting from incomplete combustion.
134. "Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution. A.R.S. § 49-401.01(23).
135. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
136. "Stack in existence" means that the owner or operator had either:
- a. Begun, or caused to begin, a continuous program of physical onsite construction of the stack;
  - b. Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.
137. "Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

138. “State implementation plan” or “SIP” means the accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.
139. “Stationary rotating machinery” means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.
140. “Stationary source” means any building, structure, facility or installation which emits or may emit any regulated NSR pollutant, any regulated air pollutant or any pollutant listed under section 112(b) of the act. “Building,” “structure,” “facility,” or “installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same “Major Group” as described in the “Standard Industrial Classification Manual, 1987.”
141. “Subject to regulation” means, for any air pollutant, that the pollutant is subject to either a provision in the Act, or a nationally-applicable regulation codified by the administrator in 40 CFR chapter I, subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.
142. “Sulfuric acid plant” means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.
143. “Temporary clean coal technology demonstration project” means a clean coal technology demonstration project operated for five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.
144. “Temporary source” means a source which is portable, as defined in A.R.S. § 49-401.01(23) and which is not an affected source.
145. “Total reduced sulfur” (TRS) means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.
146. “Trivial activities” means activities and emissions units, such as the following, that may be omitted from a permit or registration application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:
- a. Low-Emitting Combustion

- i. Combustion emissions from propulsion of mobile sources;
  - ii. Emergency or backup electrical generators at residential locations;
  - iii. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capable of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device;
- b. Low- Or Non-Emitting Industrial Activities
- i. Blacksmith forges;
  - ii. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, sawing, grinding, turning, routing or machining of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood;
  - iii. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are insignificant activities based on size or production level thresholds. Brazing, soldering, and welding equipment, and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this definition;
  - iv. Drop hammers or hydraulic presses for forging or metalworking;
  - v. Air compressors and pneumatically operated equipment, including hand tools;
  - vi. Batteries and battery charging stations, except at battery manufacturing plants;
  - vii. Drop hammers or hydraulic presses for forging or metalworking;
  - viii. Equipment used exclusively to slaughter animals, not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;
  - ix. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation;
  - x. Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOC or HAP;
  - xi. CO<sub>2</sub> lasers used only on metals and other materials that do not emit HAP in the process;
  - xii. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;
  - xiii. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;
  - xiv. Laser trimmers using dust collection to prevent fugitive emissions;
  - xv. Process water filtration systems and demineralizers;
  - xvi. Demineralized water tanks and demineralizer vents;
  - xvii. Oxygen scavenging or de-aeration of water;

- xviii. Ozone generators;
  - xix. Steam vents and safety relief valves;
  - xx. Steam leaks; and
  - xxi. Steam cleaning operations and steam sterilizers;
  - xxii. Use of vacuum trucks and high pressure washer/cleaning equipment within the stationary source boundaries for cleanup and in-source transfer of liquids and slurried solids to waste water treatment units or conveyances;
  - xxiii. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
  - xxiv. Electric motors.
- c. Building and Site Maintenance Activities
- i. Plant and building maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots, if these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and do not otherwise trigger a permit revision. Cleaning and painting activities qualify as trivial activities if they are not subject to VOC or hazardous air pollutant control requirements;
  - ii. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision;
  - iii. Janitorial services and consumer use of janitorial products;
  - iv. Landscaping activities;
  - v. Routine calibration and maintenance of laboratory equipment or other analytical instruments;
  - vi. Sanding of streets and roads to abate traffic hazards caused by ice and snow;
  - vii. Street and parking lot striping;
  - viii. Caulking operations which are not part of a production process.
- d. Incidental, Non-Industrial Activities
- i. Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act;
  - ii. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;
  - iii. Tobacco smoking rooms and areas;
  - iv. Non-commercial food preparation;
  - v. General office activities, such as paper shredding, copying, photographic activities, pencil sharpening and blueprinting, but not including incineration;

- vi. Laundry activities, except for dry-cleaning and steam boilers;
  - vii. Bathroom and toilet vent emissions;
  - viii. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability purposes under subsection (146)(c) of the definition of major source in this Section and any required fugitive dust control plan or its equivalent is submitted with the application;
  - ix. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use;
  - x. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
  - xi. Circuit breakers;
  - xii. Adhesive use which is not related to production.
- e. Storage, Piping and Packaging
- i. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP;
  - ii. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
  - iii. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
  - iv. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
  - v. Storage cabinets for flammable products;
  - vi. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;
  - vii. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
- f. Sampling and Testing
- i. Vents from continuous emissions monitors and other analyzers;
  - ii. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents;
  - iii. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;
  - iv. Hydraulic and hydrostatic testing equipment;
  - v. Environmental chambers not using HAP gases;

- vi. Soil gas sampling;
  - vii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units;
  - g. Safety Activities
    - i. Fire suppression systems;
    - ii. Emergency road flares;
  - h. Miscellaneous Activities
    - i. Shock chambers;
    - ii. Humidity chambers;
    - iii. Solar simulators;
    - iv. Cathodic protection systems;
    - v. High voltage induced corona; and
    - vi. Filter draining.
147. "Unclassified area" means an area which the Administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this Chapter, is treated as an attainment area.
148. "Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds.
149. "Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.
150. "Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.
151. "Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state.
152. "Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.
153. "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
154. "Volatile organic compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions. This includes any such organic compound other than the following:
- a. Methane;
  - b. Ethane;
  - c. Methylene chloride (dichloromethane);

- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (HCFC-22);
- i. Trifluoromethane (HFC-23);
- j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134(a));
- n. 1,1-dichloro 1-fluoroethane (HCFC-141(b));
- o. 1-chloro 1,1-difluoroethane (HCFC-142(b));
- p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);
- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143(a));
- t. 1,1-difluoroethane (HFC-152(a));
- u. Parachlorobenzotrifluoride (PCBTF);
- v. Cyclic, branched, or linear completely methylated siloxanes;
- w. Acetone;
- x. Perchloroethylene (tetrachloroethylene);
- y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225(ca));
- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225(cb));
- aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- bb. Difluoromethane (HFC-32);
- cc. Ethylfluoride (HFC-161);
- dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236(fa));
- ee. 1,1,2,2,3-pentafluoropropane (HFC-245(ca));
- ff. 1,1,2,3,3-pentafluoropropane (HFC-245(ea));
- gg. 1,1,1,2,3-pentafluoropropane (HFC-245(eb));
- hh. 1,1,1,3,3-pentafluoropropane (HFC-245(fa));
- ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236(ea));
- jj. 1,1,1,3,3-pentafluorobutane (HFC-365(mfc));
- kk. Chlorofluoromethane (HCFC-31);
- ll. 1 chloro-1-fluoroethane (HCFC-151(a));

- mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123(a));
  - nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>);
  - oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OCH<sub>3</sub>);
  - pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>);
  - qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>);
  - rr. Methyl acetate; and
  - ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>, HFE—7000);
  - tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE – 7500);
  - uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC 227ea);
  - vv. Methyl formate (HCOOCH<sub>3</sub>): and
  - ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300);
  - xx. Propylene carbonate;
  - yy. Dimethyl carbonate; and
  - zz. Trans -1,3,3,3-tetrafluoropropene;
  - aaa.HCF<sub>2</sub>OCF<sub>2</sub>H (HFE-134);
  - bbb. HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>H (HFE-236(cal2));
  - ccc.HCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (HFE-338(pcc13));
  - ddd. HCF<sub>2</sub>OCF<sub>2</sub>OCF<sub>2</sub>CF<sub>2</sub>OCF<sub>2</sub>H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
  - eee.Trans 1-chloro-3,3,3- trifluoroprop-1-ene;
  - fff. 2,3,3,3-tetrafluoropropene;
  - ggg. 2-amino-2-methyl-1-propanol; and
  - hhh. Perfluorocarbon compounds that fall into these classes:
    - i. Cyclic, branched, or linear, completely fluorinated alkanes.
    - ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
    - iii. Cycle, branched, or linear, completely fluorinated tertiary amines with no unsaturations; or
    - iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
    - v. The following compound is VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but is not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.
155. “Wood waste burner” means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a by-product.

**ARTICLE 4. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR  
MODIFICATIONS TO EXISTING MAJOR SOURCES**

**R18-2-404. Offset Standards**

- A. Increased emissions by a major source or major modification subject to R18-2-403 of each pollutant for which the area has been designated as nonattainment and for which the source or modification is classified as major shall be offset by real reductions in the actual emissions of the pollutant. Offsets shall be for the same regulated NSR Pollutant, ~~except that emissions of the ozone precursors NO<sub>x</sub> and VOC may be offset by reductions in emissions of either of those pollutants, provided that all other applicable requirements of this Section and R18-2-405 are satisfied.~~ Except as provided in R18-2-405 and subsection (J), the ratio of the total actual reductions to the emissions increase shall be at least 1 to 1.
- B. Except as provided in subsection (B)(1) or (2), for sources and modifications subject to this Section, the baseline for determining credit for emissions reductions is the emissions limit for the source generating the offset credit under the applicable implementation plan in effect at the time the application for a permit or permit revision is filed.
1. The offset baseline shall be the actual emissions of the source from which offset credit is obtained where either of the following conditions is satisfied:
    - a. The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area for which the preconstruction review program was adopted.
    - b. The applicable implementation plan does not contain an emissions limitation for that source or source category.
  2. Where the emissions limit under the applicable implementation plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential.
- C. For an existing fuel combustion source, emissions offset credit shall be based on the allowable emissions under the applicable implementation plan for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable or actual emissions for the fuels involved is not acceptable, unless the permit for the existing source is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a fuel generating higher emissions. The owner or operator of the existing source must demonstrate that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.
- D. Offset Credit for Shutdowns.

1. Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be credited for offsets if they meet both of the following conditions.
    - a. The reductions are surplus, permanent, quantifiable, and federally enforceable.
    - b. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this subsection, the Director may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.
  2. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in subsection (D)(1)(b) may be credited only if one of the following conditions is satisfied:
    - a. The shutdown or curtailment occurred on or after the date the construction permit application is filed.
    - b. The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subsection (D)(1)(a).
- E.** No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds," 42 FR 35314 (July 8, 1977).
- F.** All emission reductions claimed as offset credits shall be federally enforceable by the time a proposed final permit is issued to the owner or operator of the major source subject to this Section and shall be in effect by the time the new or modified source subject to the permit commences operation.
- G.** The owner or operator of a major source or major modification subject to this Section must obtain offset credits from the same source or from other sources in the same nonattainment area, except that the Director may allow the owner or operator to obtain offset credits from another nonattainment area if both of the following conditions are satisfied:
1. The other area has an equal or higher nonattainment classification than the area in which the source is located.
  2. Emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located.
- H.** Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under this Article, R18-2-334, or the state has not relied on it in a demonstration of attainment or reasonable further progress.

- I. The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset under this Section shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.
- J. In ozone nonattainment areas classified as marginal, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.10 to 1. In ozone nonattainment areas classified as moderate, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.15 to 1. New major sources and major modifications in serious and severe ozone nonattainment areas shall comply with this Section and R18-2-405.

#### 49-104. Powers and duties of the department and director

##### A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to ensure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Ensure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. The department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
15. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

16. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This paragraph does not adversely affect standards adopted by an Indian tribe under federal law.

17. Provide administrative and staff support for the oil and gas conservation commission.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.

5. Contract with other agencies, including laboratories, in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at those places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection I, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules may:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. The department may establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rulemaking process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. The department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

(a) The direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly

related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

- (b) The availability of other funds for the duties performed.
- (c) The impact of the fees on the parties subject to the fees.
- (d) The fees charged for similar duties performed by the department, other agencies and the private sector.

18. Appoint a person with a background in oil and gas conservation to act on behalf of the oil and gas conservation commission and administer and enforce the applicable provisions of title 27, chapter 4 relating to the oil and gas conservation commission.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying those fees that are not associated with the dredge and fill permit program established pursuant to chapter 2, article 3.2 of this title. For services provided under the dredge and fill permit program, a state agency shall pay either:

- (a) The fees established by the department under the dredge and fill permit program.
- (b) The reasonable cost of services provided by the department pursuant to an interagency service agreement.

2. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

3. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

49-404. State implementation plan

A. The director shall maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act.

B. The director may adopt rules that describe procedures for adoption of revisions to the state implementation plan.

C. The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective.

49-406. Nonattainment area plan

- A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.
- B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.
- C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.
- D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.
- E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.
- F. At a minimum, the memorandum of agreement shall contain:
1. The relevant responsibilities and authorities of each of the coordinating agencies.
  2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
  3. Assurances for adequate plan implementation.
  4. Procedures and responsibilities for tracking plan implementation.
  5. Responsibilities for preparing demographic projections including land use, housing, and employment.
  6. Coordination with transportation programs.
  7. Procedures and responsibilities for adoption of control measures and emissions limitations.
  8. Responsibilities for collecting air quality, transportation and emissions data.
  9. Responsibility for conducting air quality modeling.
  10. Responsibility for administering and enforcing stationary source controls.
  11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:
    - (a) Demographics.

- (b) Transportation.
- (c) Emissions inventories.
- (d) Assumptions used in developing the model.
- (e) Results of modeling done in support of the plan.
- (f) Monitoring data.

G. Each agency that commits to implement any emission limitation or other control measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:

1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
2. A program for the enforcement of the limitation or measure.
3. The level of personnel and funding allocated to the implementation of the measure.

H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of section 174 of the clean air act and that is recommended by the city that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

49-425. Rules; hearing

A. The director shall adopt such rules as the director determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify and amend reasonable standards for the quality of and emissions into the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act.

B. No rule may be enacted or amended except after the director first holds a public hearing after thirty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.

C. The department shall enforce the rules adopted by the director.

D. All rules enacted pursuant to this section shall be made available to the public at a reasonable charge on request.

49-426. Permits; duties of director; exceptions; applications; objections; fees

A. A permit shall:

1. Be issued by the director in compliance with the terms of this section.
2. Be required for any person seeking a compliance extension pursuant to section 49-426.03, subsection B, paragraph 3 and section 112(a)(5) of the clean air act and for any person beginning actual construction of or operating any source, except as prescribed in subsection B of this section or section 49-426.01.

B. The provisions of this section shall not apply to motor vehicles, to agricultural vehicles or agricultural equipment used in normal farm operations, or to fuel burning equipment which, at a location or property other than a one or two family residence, is rated at less than one million British thermal units per hour. The director may establish by rule additional sources or classifications of sources for which a permit is not required and pollutant-emitting activities and emissions units at permitted sources that are not required to be included in the permit. The director shall not adopt such rules unless the director makes a written finding with supporting facts that the exempted source, class of sources, pollutant-emitting activities or emissions units will have an insignificant adverse impact on air quality. In adopting these rules, the director may consider any rule that is adopted by the administrator pursuant to section 502 of the clean air act and that exempts one or more source categories from the requirement to obtain a permit under title V of the clean air act.

C. Every application for a permit shall be filed in the manner and form prescribed by the director, and shall contain all the information necessary to enable the director to make the determination to grant or deny such application. The director shall establish by rule requirements for permit applications, including the standard application form for title V sources. The director shall establish by rule requirements for applications for general permits. An application for a permit issued pursuant to title V of the clean air act shall include a compliance plan that describes how the applicant will comply with all of the applicable requirements of this chapter and the clean air act, including a schedule of compliance and a schedule under which progress reports will be submitted to the director at least every six months. The director may require that such application include all sources that are used or to be used by the applicant in a certain process or a single facility or location. Before acting on an application for a permit, the director may require the applicant to furnish further information or further plans or specifications. The director shall act, within a reasonable time, on such application and shall notify the applicant in writing of the proposed approval or denial of such application, except that the director may have a reasonable period of time in which to gather information, inspect premises, and issue such permits. The director shall adopt rules that establish procedures for determining when applications are complete, for processing applications and for reviewing permit actions. The director shall also establish by rule criteria for determining reasonable times for processing permit applications. Rules adopted pursuant to this subsection for permits issued pursuant to title V of the clean air act shall conform to the requirements of section 505(a) of the clean air act.

D. The director shall give notice of a proposed permit for a source required to obtain a permit pursuant to title V of the clean air act once each week for two consecutive weeks in two newspapers of general circulation in the county in which the source is or will be located. The notice shall describe the proposed permit and air contaminants to be emitted and shall state that any person may submit comments on the proposed permit and may request a public hearing. The director shall require the applicant at the time of the first notice to post the site where the source is or may be located. If permitted by federal, state and local law, the posting shall be prominently placed at a site that is under the applicant's legal control and that is adjacent to the nearest public roadway. The posting shall be visible to the public using the public roadway and shall contain the information in the notice that is published by the director. If a public hearing is requested, the director shall require the applicant to place an additional posting that provides notice of the public hearing. A posting shall be maintained until the public comment period on the proposed permit is closed. The director shall make available to the public notices of proposed permits. Each public notice that is issued under this chapter shall be mailed to the permit applicant, to the affected federal, state and local agencies and to those persons who have requested in writing copies of proposed permit action notices. During the public comment period, any person may submit a request to the department to conduct a public hearing for the purpose of receiving oral or written comments on the

proposed permit. A written comment shall state the name and mailing address of the person, shall be signed by the person, his agent or his attorney and shall clearly set forth reasons why the permit should or should not be issued. Grounds for comment are limited to whether the proposed permit meets the criteria for issuance prescribed in this section or in section 49-427. The department shall consider and prepare written responses to all comments received during the public comment period including comments made at a public hearing conducted by the department. At the time a final permit decision is made, copies of the department's responses shall be made available to the applicant and any person who commented on the proposed permit.

E. Permits or revisions issued pursuant to this section or section 49-426.01 may be issued subject to such terms and conditions as are consistent with the requirements of this article, article 1 of this chapter and the clean air act and are found by the director to be necessary, following public notice and an opportunity for a public hearing as provided in subsection D or H of this section or in section 49-426.01, and subject to payment of a reasonable fee to be determined as follows:

1. For a source that is required to obtain a permit pursuant to title V of the clean air act, the director shall establish by rule a system of fees that is consistent with and equivalent to that prescribed by section 502 of the clean air act. These rules shall prescribe procedures for increasing the fee each year by the percentage if any by which the consumer price index for the immediately preceding calendar year exceeds the consumer price index for calendar year 1989.
2. For a facility that is required to obtain a permit pursuant to this chapter but that is not required to obtain a permit pursuant to title V of the clean air act, the director shall determine a fee based on the total actual cost of processing the permit application, but not exceeding twenty-five thousand dollars.

The director shall establish an annual inspection fee, not to exceed the average cost of inspection. The director shall adopt, by rule, criteria for determining fees and for public hearings.

F. Permits issued pursuant to this section shall be issued for a period of five years.

G. Except as provided in subsection H of this section, any person burning used oil, used oil fuel, hazardous waste or hazardous waste fuel in any machine, incinerator or device shall first obtain a permit from the director. Any permit issued by the director under this subsection shall contain, at a minimum, conditions governing:

1. Limitations on the types, amounts and feed rates of used oil, used oil fuel, hazardous waste or hazardous waste fuel which may be burned.
2. The frequency and types of fuel testing to be conducted by the person.
3. The frequency and type of emissions testing or monitoring to be conducted by the person.
4. Requirements for record keeping and reporting.
5. Numeric emission limitations expressed in pounds per hour and tons per year for air contaminants to be emitted from the facility burning off-specification used oil fuel, hazardous waste or hazardous waste fuel.

H. The director may issue a general permit for a defined class of facilities if the class contains a large number of facilities that are substantially similar in nature and that have substantially similar emissions and if the following conditions are met:

1. A general permit shall comply with all of the requirements for permits prescribed by this section except for the requirements of subsection D of this section and shall be consistent with the clean air act.
2. The director shall give notice of the proposed general permit once each week for two consecutive weeks in a newspaper of general circulation in each county. The notice shall describe the proposed general permit, the general class of sources that would be subject to the proposed permit and the air contaminants to be emitted. The notice shall also state that any person may submit comments on the proposed general permit and may request a

public hearing. A written comment shall state the name of the person and the person's agent or attorney and shall clearly set forth reasons why the general permit should or should not be issued. Grounds for comment are limited to whether the proposed general permit meets the criteria for issuance prescribed in this section or section 49-427.

3. On issuance of a general permit any person seeking to permit a source under this subsection shall submit an application pursuant to subsection C of this section.
4. If the director approves an application to be permitted under a general permit, the director shall provide notice of the approval in a newspaper of general circulation in the county in which the source is or will be located.
5. If a person violates a general permit, the director may require the source to obtain a permit pursuant to subsection A of this section.
6. A general permit may be revoked or revised at any time by the director if necessary to comply with this chapter. If the director revokes or revises a general permit, the director shall notify all persons whose sources are affected by the revocation or revision and shall include notice of procedures to obtain a permit pursuant to subsection A of this section or notice of procedures for compliance with the revisions.
7. The director by rule shall adopt procedures for the issuance of general permits.
8. The director may adopt conditions in a general permit applicable to sources located in a specified geographic area either independently of or upon petition by a county air pollution control officer.

I. Permits issued pursuant to this section for a source required to obtain a permit under title V of the clean air act shall contain all of the following:

1. Conditions reflecting all applicable requirements of this article and rules adopted pursuant to this article.
2. Enforceable emission limitations and standards.
3. A schedule for compliance, if applicable.
4. The requirement to submit at least every six months the results of any required monitoring.
5. Any other conditions that are necessary to assure compliance with this article and the clean air act, including the applicable implementation plan.

J. The director may refuse to issue any permit to any source subject to the requirements of title V of the clean air act if the administrator objects to its issuance in a timely manner as prescribed under title V of the act.

K. If an applicant has submitted a timely and complete application for a permit required under this section, but final action has not been taken on that application, failure to obtain a permit shall not be a violation of this chapter unless the delay in final action is due to the failure of the applicant to submit information required or requested to process the application. This subsection does not apply to any person required to obtain a permit before commencing construction of a source as required under this section or any person seeking a permit revision as provided under section 49-426.01.

L. The director may issue a single permit authorizing emissions from similar operations at multiple temporary locations, if the permit includes conditions that will assure compliance with all applicable requirements of this chapter and the clean air act at all locations. Any permit issued pursuant to this subsection shall require the applicant to notify the director in advance of each change in location. In issuing a single permit, the director may require a separate permit fee for operations at each location.

M. In the case of a permit with a term of three or more years issued pursuant to the requirements of title V of the clean air act to a major source, the director shall require revisions to the permit to incorporate applicable

standards and regulations adopted by the administrator pursuant to the clean air act after the issuance of the permit. The director shall require any revisions as expeditiously as practicable, but not later than eighteen months after the promulgation of such standards and regulations. No permit revision shall be required if the effective date of standards and regulations is after the expiration of the permit. Any permit revision required pursuant to this subsection shall be treated as a permit renewal.

N. Any permit issued pursuant to the requirements of this article and title V of the clean air act to a unit subject to the provisions of title IV of the clean air act shall include conditions prohibiting all of the following:

1. Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owners or operators of the unit or by the designated representative of the owners or operators.
2. Amounts in excess of applicable emission rates.
3. The use of any allowance prior to the year for which it was allocated.
4. Contravention of any other provision of the permit.

O. The director shall adopt a rule specifying the notice, public participation requirements and other permit issuance procedures for permits that are not issued pursuant to title V of the clean air act.

P. In determining whether a permitting threshold established pursuant to this section applies to an existing source, the director shall exclude particulate matter that is not subject to a national ambient air quality standard under the clean air act.

**DEPARTMENT OF TRANSPORTATION**

Title 17, Chapter 6

**Amend:** R17-6-101, R17-6-102, Table 1, R17-6-103, R17-6-104, R17-6-105, R17-6-106, R17-6-107, R17-6-108, R17-6-109, R17-6-112, R17-6-113, R17-6-201, R17-6-203, R17-6-205, R17-6-206, Table 2, R17-6-209, R17-6-210, R17-6-211, R17-6-212, R17-6-302, Ill. 1, R17-6-303, R17-6-304, Ill. 4, R17-305, R17-6-306, R17-6-307, R17-6-401, R17-6-402, R17-6-403, R17-6-407, R17-6-411, Table 3.01, Table 3.02, Table 3.03, Table 3.04, Table 3.05, Table 3.06, Table 3.07, Table 3.08, Table 3.09, R17-6-412, Table 4, R17-6-502, R17-6-506, R17-6-508, R17-6-509

**Repeal:** R17-6-202, R17-6-208, R17-6-211, Table 6, Table 7, R17-6-402, R17-6-405, R17-6-409, Ill. 3

**Renumber:** R17-6-204, R17-6-210, Table 5, R17-6-211, R17-6-402, R17-6-403, R17-6-405, R17-6-406, R17-6-408, R17-6-409, R17-6-413, Table 5, R17-6-414, R17-6-501, R17-6-502, R17-6-503, R17-6-504, R17-6-505, R17-6-507, R17-6-508, R17-6-509, R17-6-510, R17-6-511

**New Section:** R17-6-207, Ill. 3, R17-6-501, R17-6-503, R17-6-504, R17-6-505



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 15, 2022

**SUBJECT: DEPARTMENT OF TRANSPORTATION**  
Title 17, Chapter 6, Department of Transportation - Oversize and Overweight Special Permits

**Amend:** R17-6-101, R17-6-102, Table 1, R17-6-103, R17-6-104, R17-6-105, R17-6-106, R17-6-107, R17-6-108, R17-6-109, R17-6-112, R17-6-113, R17-6-201, R17-6-203, R17-6-205, R17-6-206, Table 2, R17-6-209, R17-6-210, R17-6-211, R17-6-212, R17-6-302, Ill. 1, R17-6-303, R17-6-304, Ill. 4, R17-305, R17-6-306, R17-6-307, R17-6-401, R17-6-402, R17-6-403, R17-6-407, R17-6-411, Table 3.01, Table 3.02, Table 3.03, Table 3.04, Table 3.05, Table 3.06, Table 3.07, Table 3.08, Table 3.09, R17-6-412, Table 4, R17-6-502, R17-6-506, R17-6-508, R17-6-509

**Repeal:** R17-6-202, R17-6-208, R17-6-211, Table 6, Table 7, R17-6-402, R17-6-405, R17-6-409, Ill. 3

**Renumber:** R17-6-204, R17-6-210, Table 5, R17-6-211, R17-6-402, R17-6-403, R17-6-405, R17-6-406, R17-6-408, R17-6-409, R17-6-413, Table 5, R17-6-414, R17-6-501, R17-6-502, R17-6-503, R17-6-504, R17-6-505, R17-6-507, R17-6-508, R17-6-509, R17-6-510, R17-6-511

**New Section:** R17-6-207, Ill. 3, R17-6-501, R17-6-503, R17-6-504, R17-6-505

---

## **Summary:**

This regular rulemaking from the Department of Transportation (Department) relates to rules in Title 17, Chapter 6, regarding Oversize and Overweight Special Permits. The proposed rules amend existing oversize and overweight envelope and special permit rules and contain reasonable permit requirements, restrictions, and allowances for transporting oversize and overweight vehicles and loads on the State Highway System.

The Department received approval to initiate this rulemaking on September 18, 2015 and final approval to submit it to the Council on March 14, 2022.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The Department cites both general and specific statutory authority for the rules.

2. **Do the rules establish a new fee or contain a fee increase?**

No. The rulemaking does not establish a new fee or contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department did not review or rely on a study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

The Department indicates that the rulemaking details eligibility, application, and use requirements for a variety of permits the Department currently issues to commercial motor carriers for the operation of commercial motor vehicles, combination of vehicles, or vehicle and load combinations exceeding any statutorily prescribed maximum size or weight limitation. In addition, the applicable statutes also provide authority for the Department to issue permits, require route analysis and approval, set conditions and restrictions, and collect fees. Stakeholders include:

1. The Department;
2. Arizona Department of Public Safety;
3. Arizona Department of Agriculture;
4. Arizona utility providers;
5. Any political subdivision issuing permits for oversize or overweight vehicles, combinations of vehicles, or vehicle and load combinations;
6. Automobile and boat transporter companies based in Arizona;
7. Businesses or consumers with projects requiring the use or movement of an oversize and overweight vehicle, combination of vehicles, or vehicle and load combination on a highway under the jurisdiction of the Department;

and

8. Freight brokerage firms, heavy-haul companies, and other commercial transporters based in Arizona who seek permits for movement of oversize vehicles, combinations of vehicles, or vehicle and load combinations.

The amendments made in the rulemaking modify the parameters of the Department's existing class A special permit to more closely follow general permit requirements provided under A.R.S § 41-1037. Further, the Department states that the rulemaking aligns the Department's definition of a "non-reducible vehicle or load" with the federal definition of "non-reducible load or vehicle" and modifies the Department's issuance criteria for class A special permits to accommodate all vehicles, or vehicle and load combinations, previously only eligible for a class B, class B-Type R, class D, or class G special permit. The Department has determined that the broader class A special permits, which are the least restrictive permits most desired by industry representatives, will sufficiently encompass all specific non-reducible vehicles, combination of vehicles, or vehicle and load combinations with dimensions that do not exceed the provided under statute.

According to the Department, the rulemaking brings the Department's rules into conformance with all applicable provisions prescribed under federal "Fixing America's Surface Transportation Act" or "FAST Act" signed into law on December 4, 2015, which provided some level of regulatory relief for motor carriers trying to maintain compliance with federal regulations while operating certain types of commercial vehicles in interstate commerce. The Department further indicates that the rulemaking does not increase any fee currently required on application for an oversize or overweight envelope or special permits.

**5. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department states that the benefits of these rules far outweigh the costs of the rules and anticipates that all businesses will experience an unquantifiable, but welcome, financial benefit as a result of the Department's ability to issue special permits authorizing increased weight allowances on more routes for vehicles, or vehicle load combinations, equipped with at least one tridem axle group configuration. The Department believes the rulemaking supports appropriately scaled, sustainable forest products currently working throughout the state to safeguard the health, safety, and welfare of visitors to the National Forests and any residents of the surrounding communities by reducing unnecessary fuel loads for the elimination of, or a significant reduction in, any future possibility of devastating forest fires.

The Department indicates they routinely adopt the least costly and least burdensome options for any process or procedure required of the regulated public or industry.

6. **What are the economic impacts on stakeholders?**

The Department states that the Department of Public Safety, local law enforcement personnel, and certain members of Arizona's trucking, heavy-haul transport, crane, utility, and escort vehicle industries, including the Arizona Trucking Association, the Specialized Carriers & Rigging Association, and Arizona's business community may experience minimal costs for re-training any personnel involved with the application, issuance, and use of oversize and overweight envelope or special permits issued by the Department under these rules.

The Department indicates that permit costs are minimal and permit fees are set by statute. They go on to state that the costs of permits and the permitting function is uniform regardless of business size and that persons not associated with the oversize and overweight transport industry incur no costs from the provisions of this Chapter.

The Department believes Arizona's motoring public will experience no direct costs as a result of this rulemaking, but may experience the unquantifiable benefits the rules provide in maintaining general highway safety measures and supporting cost abatement in the preservation and integrity of the State Highway System infrastructure.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The Department did not make any changes to the rules between the Notice of Proposed Rulemaking and the Notice of Final Rulemaking.

8. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Department did not receive any comments in conducting this rulemaking.

9. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

As the Department indicates in Item 12a of the Preamble, the rules "detail the eligibility, application, and use requirements of a variety of special permits the Department issues to commercial motor carriers for movement of vehicles or vehicle and load combinations exceeding the maximum size or weight limitations provided by statute. Those statutes also provide specific authority for issuance, conditions, restrictions, approvals, and fees for each of the special permits issued by the Department under these rules."

Based on its review, the Department indicates that the oversize, overweight, or oversize and overweight special permits issued under the rules are general permits and comply with A.R.S. § 41-1037. Certain other types of permits issued pursuant to these rules require more information from permit holders or an additional application. Those types of

permits qualify for an exception to the general permit requirement pursuant to A.R.S. § 41-1037(A)(3) (“[t]he issuance of a general permit is not technically feasible or would not meet the applicable statutory requirements”).

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Department indicates that federal law corresponds to these rules, but the rules are not more stringent than the corresponding federal law.

**11. Conclusion**

In this regular rulemaking, the Department seeks to amend rules relating to the various types of permits it issues to commercial motor carriers. Council staff finds that this rulemaking would result in rules that are more clear, concise, understandable, and effective. The Department is requesting the standard 60-day delayed effective date for these rules. Council staff recommends approval of this rulemaking.

March 16, 2022

VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Ms. Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
100 N. 15th Ave., Suite 305  
Phoenix, AZ 85007

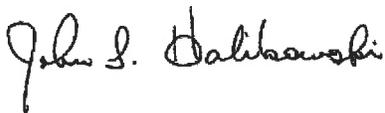
Re: 17 A.A.C. 6, Department of Transportation – Oversize and Overweight Special Permits, Articles 1 through 5

Dear Ms. Sornsins:

The Arizona Department of Transportation submits the accompanying final rule package for consideration by the Governor's Regulatory Review Council. The following information is provided to comply with A.A.C. R1-6-201(A)(1):

- a. The rulemaking record closed on December 1, 2021, and the Department received no written comments;
- b. The rulemaking activity relates to a five-year review report approved by the Council on July 12, 2018;
- c. The rulemaking does not establish a new fee;
- d. The rulemaking does not increase an existing fee;
- e. An immediate effective date is not requested for these rules under A.R.S. § 41-1032;
- f. The preamble discloses that the Department did not review any studies relevant to the rules and did not rely on any studies in its evaluation of or justification for the rules;
- g. No new full-time employees are necessary to implement and enforce the rules;
- h. Documents included in this final rule package are as follows:
  1. Signed cover letter;
  2. Notice of Final Rulemaking;
  3. Economic, Small Business and Consumer Impact Statement;
  4. General authorizing statutes, specific statutes, and definitions of terms;
  5. Request for, and approval of, the Department's exception from the rulemaking moratorium;  
and
  6. Final approval of the rules from the Office of the Governor.

Sincerely,



John S. Halikowski  
ADOT Director

Enclosures

**NOTICE OF FINAL RULEMAKING**  
**TITLE 17. TRANSPORTATION**  
**CHAPTER 6. DEPARTMENT OF TRANSPORTATION**  
**OVERSIZE AND OVERWEIGHT SPECIAL PERMITS**  
**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R17-6-101	Amend
R17-6-102	Amend
Table 1	Amend
R17-6-103	Amend
R17-6-104	Amend
R17-6-105	Amend
R17-6-106	Amend
R17-6-107	Amend
R17-6-108	Amend
R17-6-109	Amend
R17-6-112	Amend
R17-6-113	Amend
R17-6-201	Amend
R17-6-202	Repeal
R17-6-203	Amend
R17-6-204	Renumber
R17-6-205	Amend
R17-6-206	Amend
Table 2	Amend
R17-6-207	New Section
R17-6-208	Repeal
R17-6-209	Amend
R17-6-210	Renumber
R17-6-210	Amend
Table 5	Renumber
R17-6-211	Repeal
R17-6-211	Renumber
R17-6-211	Amend
R17-6-212	Amend
Table 6	Repeal

Table 7	Repeal
R17-6-302	Amend
Ill. 1	Amend
R17-6-303	Amend
R17-6-304	Amend
Ill. 4	Amend
R17-6-305	Amend
R17-6-306	Amend
R17-6-307	Amend
R17-6-401	Amend
R17-6-402	Repeal
R17-6-402	Renumber
R17-6-402	Amend
R17-6-403	Renumber
R17-6-403	Amend
R17-6-404	Amend
R17-6-405	Repeal
R17-6-405	Renumber
R17-6-406	Renumber
R17-6-407	Amend
R17-6-408	Renumber
R17-6-409	Repeal
R17-6-409	Renumber
R17-6-411	Amend
Ill. 3	New Section
Table 3.01	Amend
Table 3.02	Amend
Table 3.03	Amend
Table 3.04	Amend
Table 3.05	Amend
Table 3.06	Amend
Table 3.07	Amend
Table 3.08	Amend
Table 3.09	Amend
Ill. 3	Repeal
R17-6-412	Amend
Table 4	Amend

R17-6-413	Renumber
Table 5	Renumber
R17-6-414	Renumber
R17-6-501	Renumber
R17-6-501	New Section
R17-6-502	Renumber
R17-6-502	Amend
R17-6-503	Renumber
R17-6-503	New Section
R17-6-504	Renumber
R17-6-504	New Section
R17-6-505	Renumber
R17-6-505	New Section
R17-6-506	Amend
R17-6-507	Renumber
R17-6-508	Renumber
R17-6-508	Amend
R17-6-509	Renumber
R17-6-509	Amend
R17-6-510	Renumber
R17-6-511	Renumber

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

Authorizing statutes: A.R.S. §§ 28-366, 28-1103, 28-1104, 28-1105, 28-1111, 28-1149, 28-5204, 28-7045 and 42-19157, 23 U.S.C. § 127, and 49 U.S.C. §§ 31111, 31112, 31113, and 31114.

Implementing statutes: A.R.S. Title 28, Chapter 3, Articles 18 and 19, 23 CFR 658, and Laws 2016, Ch. 128, § 91.

**3. The effective date of the rule:**

As specified under A.R.S. § 41-1032(A), the rules will be effective 60 days after the Notice of Final Rulemaking is filed with the Office of the Secretary of State.

**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: 27 A.A.R. 2375, October 22, 2021

Notice of Proposed Rulemaking: 27 A.A.R. 2397, October 29, 2021

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

Name: John Lindley, Senior Rules Analyst

Address: Arizona Department of Transportation  
Administrative Rules and Policy Development  
206 S. 17th Ave., Mail Drop 180A  
Phoenix, AZ 85007

Telephone: (480) 267-6543

E-mail: [jlindley@azdot.gov](mailto:jlindley@azdot.gov)

Website: Please visit the ADOT website to track the progress of this rule and any other agency rulemaking matters at <https://azdot.gov/about/government-relations>.

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

The Arizona Department of Transportation (ADOT) and Overdimensional Permit Council have developed these proposed rules in coordination with a broad coalition of public and private transportation stakeholder groups including the Department of Public Safety (DPS), local law enforcement personnel, Arizona's business community, the Arizona Trucking Association, the Specialized Carriers & Rigging Association and other members of Arizona's trucking, heavy-haul transport, crane, utility, and escort vehicle industries. The proposed rules amend existing oversize and overweight envelope and special permit rules and contain reasonable permit requirements, restrictions, and allowances for transporting oversize and overweight vehicles and loads on the State Highway System.

On publication of final rulemaking at 19 A.A.R. 2486, August 16, 2013, effective September 7, 2013, several members of the Specialized Carriers & Rigging Association contacted the Department to express concern about a change made to the continuous travel allowance previously provided under R17-6-408(B) (now R17-6-205(B)) for the movement of self-propelled mobile cranes, drilling rigs, and similar specialty equipment from a 10' front or rear overhang allowance to a 3' front and 10' rear overhang allowance. In changing the language of the rule, the Department intended to expand the continuous travel allowance for all vehicles by allowing an overhang of up to 13' (previously only 10') as long as 10' of the overhang projected to the rear of the vehicle. However, by changing that language the Department inadvertently eliminated a variable overhang length consideration routinely used by the industry to justify eligibility for continuous travel previously relied on for movement of specialty equipment specifically manufactured for travel with more than 3' of front overhang (i.e., bucket trucks, ladder trucks, utility trucks, etc.). This rulemaking provides a new continuous travel allowance made specifically applicable to the movement of

self-propelled mobile cranes, drilling rigs, and similar specialty equipment with no more than 20' of overhang (10' to the front and 10' to the rear) while transporting under a class A - Crane oversize or overweight envelope or special permit.

Representatives of the heavy-haul and oversize and overweight transport industries requested that the Department further clarify the rules by making minor technical corrections that may provide additional regulatory relief for the industry and ensure that the rules are more clear, concise, and understandable. Rule amendments, technical corrections, and clarifying changes considered by the Department since publication of the final rules on oversize and overweight special permits on August 16, 2013, include:

- a. Adding a special continuous travel allowance to accommodate self-propelled mobile cranes, drilling rigs, and similar specialty equipment traveling under a class A - Crane special permit at no more than 11' in width, 14' 6" in height, 10' in length of front overhang, and 10' in length of rear overhang;
- b. Removing an outdated address from the definition of "Arizona Central Commercial Permits Office";
- c. Providing clearer references to the thresholds at which a vehicle or a self-propelled mobile crane, drilling rig, or similar specialty equipment becomes subject to the metropolitan curfew transport allowance and restrictions provided under R17-6-404;
- d. Adding a class A annual permit option and a 30-day permit option as provided under Laws 2014, Ch. 60 (HB2430), to accommodate industry requests for expansion of the more desirable class A special permit by consolidating and renaming the class B - Oversize Combination, class B - Type R - Oversize Recreational Vehicle, class D - Crane, class G - Overwidth Vehicle or Combination, and class H - Overwidth Watercraft special permits, since the class A special permits can now accommodate all dimensions and permit options previously only available under the separate permit classes;
- e. Updating R17-6-102, Table 1, Threshold Dimensions, to reflect the higher legal thresholds provided under [Laws 2016, Ch. 52 \(HB2251\)](#), and the federal "[Fixing America's Surface Transportation Act](#)" or "[FAST Act](#)";
- f. Clarifying R17-6-103 and R17-6-204 (as renumbered to R17-6-211), for delinquent tax reporting purposes under [A.R.S. § 42-19157](#), by prescribing the method and procedure used by the Department to verify eligibility for movement of a mobile home subject to payment of ad valorem taxes, including clarification on what the Department may accept as evidence of ad valorem tax payment or clearance;
- g. Repealing R17-6-212, Table 6, as duplicative information since all bridges currently designated by the Department as weight restricted are identified as such under R17-6-412, Table 4; and a special permitted vehicle with at least one tridem axle group configured as provided under R17-6-212 to distribute heavier weights over a larger surface area, may now travel on any route of the State Highway System, unless otherwise restricted under R17-6-412, Table 4;

- h. Repealing R17-6-212, Table 7, since the axle group weight calculations are no longer applicable to the new axle spacing criteria provided for class C - Tridem axle group configurations under R17-6-212;
- i. Consolidating the gross weight categories permitted for reducible vehicle and load combinations traveling under a class E special permit in conformance with legislative changes provided by [Laws 2014, Ch. 60 \(HB2430\)](#);
- j. Repealing the Western Regional Trip Permit previously made available under R17-6-211, since issuance of the permit was discontinued as provided under the Western Association of State Highway and Transportation Officials (WASHTO) [Resolution 03-18](#), effective December 31, 2018;
- k. Providing illustrations of the warning flag configurations and safety lighting device requirements for vehicles or loads extending more than four feet beyond the front of a vehicle;
- l. Adding a reference to the general highway operations requirements under R17-6-401 to remind permittees and drivers issued any multiple trip oversize or overweight envelope or special permit to access and review the most current information on highway-specific restrictions, requirements, conditions, and allowances indicated on the Department's website prior to commencing transport, as currently required under R17-6-412;
- m. Clarifying that the general term "houseboat," when transported under an envelope or special permit issued by the Department as provided in A.R.S. § 28-1144(B), and this Chapter, encompasses all large non-reducible watercraft, including a yacht;
- n. Correcting the weight tables used for maximizing the amount of weight allowed when using wider tires on axle group configurations with two or more axles;
- o. Updating R17-6-412, Table 4, to reflect the most recent bridge height and weight restriction information as posted in real time on the Department's website; to remove some under-legal width restrictions no longer necessary on certain routes; and to expand the number of routes that can now accommodate oversize and overweight vehicles, combinations of vehicles, or vehicle and load combinations using tridem axle group configurations;
- p. Removing all curfew routes and restrictions from the Yuma metropolitan area; and
- q. Updating the statutory reference in the definition of "mobile home" to reflect changes made by [Laws 2016, Ch. 128, §§ 19 through 21 \(SB1530\)](#), which renumbered A.R.S. § 41-2142 as A.R.S. § 41-4001.

Additionally, this rulemaking will allow the Department to lift size or weight restrictions on certain routes for vehicle and load combinations operating in support of projects aimed at protecting watersheds from the negative environmental and economic impacts of flood damage, maintaining the health and vitality of at-risk timber forests, supporting the economic development of communities, and preventing loss of life and significant property or infrastructure damage as a result of catastrophic forest fires. State and federal hazardous fuel reduction projects are currently being conducted under Arizona's Four Forest Restoration

Initiative, which is a collaborative effort to restore forest ecosystems on portions of four National Forests - Coconino, Kaibab, Apache-Sitgreaves, and Tonto - along the Mogollon Rim in northern Arizona and to reduce any constant threats to forest and rangeland health throughout rural Arizona.

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

The agency did not review or rely on any study relevant to the 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:**

This rulemaking does not diminish a previous grant of authority of a political subdivision of this state. However, the rulemaking is necessary to correct the Department's inadvertent removal of the variable overhang consideration currently used by the Salt River Project when dispatching oversize bucket trucks and other large utility repair vehicles or loads needed for the rapid restoration of utility services after an outage.

Additionally, as provided under [Laws 2015, Ch. 244, §§ 12 and 37 \(HB2480\)](#), the Arizona Department of Agriculture's Division of Weights and Measures has now assumed all authority, powers, duties and responsibilities of the former Arizona Department of Weights and Measures. This rulemaking updates the weighmaster services reference to reflect those services now provided through the Arizona Department of Agriculture's Weights and Measures Division. Since the legislation specifically provided that all certificates, licenses, registrations, permits and other indicia of qualification and authority previously issued by the Department of Weights and Measures remain valid for the duration of their terms of validity, any weighmaster service impacts experienced during this change of agency would have occurred as a direct result of the legislative changes and not as a result of this rulemaking.

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

As a multi-modal transportation agency, the Arizona Department of Transportation is primarily responsible for planning, building, operating and maintaining a complex highway system. The Department also provides for the safe and efficient movement of people, goods, and services throughout the state, while promoting compliance with all applicable state and federal laws and regulations developed to protect and preserve all state and federal highway infrastructure under the jurisdiction of the Department. The Arizona Department of Public Safety assists the Department in performance of those duties, and both agencies endeavor to make Arizona highways safer for all motorists by:

Enforcing all motor carrier safety regulations;

Requiring all trucks of every weight and classification to be configured, maintained, and driven in ways that maximize public safety; and

Ensuring that all commercial motor vehicle owners, operators, and drivers comply with all applicable state and federal commercial motor vehicle safety regulations, weight laws, and driver qualification standards.

As indicated in Arizona's statewide Long-Range Transportation Plan, [What Moves You Arizona \(WMYA\) 2040](#):

ADOT is responsible for maintaining, operating, and improving 18,488 miles of the State Highway System. Although the State Highway System constitutes less than 10 percent of the total public roadway miles in Arizona, it carries 50 percent of the total traffic and nearly 90 percent of all the heavy truck traffic;

ADOT is also responsible for monitoring the conditions on all 7,826 bridges on state and local roads in Arizona, and for replacing, maintaining and preserving the 4,811 state-owned bridges that are part of the State Highway System; and

Arizona and the state of Sonora, Mexico share approximately 360 miles of international border. During 2014, more than \$437 billion worth of goods moved through the U.S.-Mexico border using trucks, rail and pipeline.

This rulemaking details eligibility, application, and use requirements for a variety of permits the Department currently issues to commercial motor carriers for the operation of commercial motor vehicles, combinations of vehicles, or vehicle and load combinations exceeding any statutorily prescribed maximum size or weight limitation. The applicable statutes also provide authority for the Department to issue permits, require route analysis and approval, set conditions and restrictions, and collect fees.

The amendments made in this rulemaking modify the parameters of the Department's existing class A special permit to more closely follow the general permit requirement provided under A.R.S. § 41-1037. To reduce the number of permit classes, categories, and types of special permits that each applicant must currently consider each time the applicant applies for permission to transport a vehicle or vehicle and load combination using the State Highway System.

Further, this rulemaking aligns the Department's definition of a "non-reducible vehicle or load" with the federal definition of "non-divisible load or vehicle" and modifies the Department's issuance criteria for class A special permits to accommodate all vehicles, or vehicle and load combinations, previously only eligible for a class B, class B-Type R, class D, or class G special permit. The Department has determined that the broader class A special permits, which are the least restrictive permits most desired by industry representatives, will sufficiently encompass all specific non-reducible vehicles, combinations of vehicles, or vehicle and load combinations with dimensions that do not exceed the limitations provided under R17-6-201, or the maximum permitted weight computations provided under R17-6-411.

In this rulemaking, the Department identifies the following entities that may bear costs and receive benefits ranging from minimal to substantial:

- a. Arizona Department of Transportation;
- b. Arizona Department of Public Safety;
- c. Arizona Department of Agriculture;
- d. Arizona utility providers;
- e. Any political subdivision issuing permits for oversize or overweight vehicles, combinations of vehicles, or vehicle and load combinations;
- f. Automobile and boat transporter companies based in Arizona;
- g. Businesses or consumers with projects requiring the use or movement of an oversize, overweight, or oversize and overweight vehicle, combination of vehicles, or vehicle and load combination on a highway under the jurisdiction of the Department;
- h. Freight brokerage firms, heavy-haul companies, and other commercial transporters based in Arizona who seek permits for movement of oversize or overweight vehicles, combinations of vehicles, or vehicle and load combinations;
- i. Private certified engineering firms; and
- j. Private individuals and consumers.

The Department of Public Safety, local law enforcement personnel, and certain members of Arizona's trucking, heavy-haul transport, crane, utility, and escort vehicle industries, including the Arizona Trucking Association, the Specialized Carriers & Rigging Association, and Arizona's business community may experience minimal costs for re-training any personnel involved with the application, issuance, and use of oversize and overweight envelope or special permits issued by the Department under these rules.

This rulemaking brings the Department's rules into conformance with all applicable provisions prescribed under the federal ["Fixing America's Surface Transportation Act"](#) or ["FAST Act"](#) signed into law on December 4, 2015, which provided some level of regulatory relief for motor carriers trying to maintain compliance with federal regulations while operating certain types of commercial motor vehicles in interstate commerce. The Department is updating R17-6-102, Table 1, to reflect the new legal thresholds provided under the FAST Act and Laws 2016, Chapter 52, which:

- Increased the allowable length of a stinger-steered automobile or boat transporter from 75 feet to 80 feet and provided that up to four feet of front overhang and six feet of rear overhang on the automobile or boat transporter shall not be included when measuring the overall length of the vehicle and load for legal operation in interstate commerce as provided under 49 United States Code (U.S.C.) § 31111(a) and (b);
- Increased the allowable length of a towaway trailer transporter combination to 82 feet when operated on the Interstate Highway System;
- Clarified that a vehicle carrying fluid milk products is now deemed under 23 U.S.C. § 127(a) to be a load that cannot be easily dismantled or divided, and as such, is a "non-reducible load or vehicle" eligible for special permit issuance under A.R.S. § 28-1103 and these rules;

- Provided an exception from the existing 20,000 pound single axle load limit allowing an over-the-road bus to operate with a single axle load limit of up to 24,000 pounds without a special permit;
- Clarified the term “emergency response vehicle” as it relates to the “non-reducible load or vehicle” designation provided for oversize and overweight special permit issuance when traveling on the Interstate Highway System, to include vehicles loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, when being used for the purpose of spreading the material on highways that are or may become slick or icy;
- Increased the maximum gross vehicle weight allowance for natural gas and electric battery vehicles traveling on the Interstate Highway System by an amount equal to the difference between the weight attributable to the vehicle’s natural gas tank and fueling system or electric battery system and the weight of a comparable diesel tank and fueling system (up to 82,000 pounds) as provided under 23 U.S.C. § 127(s); and
- Clarified the special permit issuance process for commercial motor carriers using otherwise reducible overweight vehicles or vehicle and load combinations on the Interstate Highway System for delivering supplies and other relief during periods of national emergency.

This rulemaking does not increase any fee currently required on application for an oversize or overweight envelope or special permit. In Calendar Year 2019, the Department generated \$4,854,485 by issuance of 82,093 oversize and overweight envelope and special permits for distribution to the Highway User Revenue Fund as prescribed under A.R.S. § 28-6533, and the State Highway Fund as prescribed under A.R.S. § 28-1105(A)(2). The Table below outlines the issuance counts and revenue collections for each type of oversize and overweight permit classification issued by the Department under these rules in Calendar Year 2019:

<b>Permit Classification</b>	<b>Permits Issued</b>	<b>Highway User Revenue Fund</b>
Envelope Permit (30-Day)	4	\$3,700
Envelope Permit (Annual)	1376	\$1,213,425
Envelope Permit Houseboat (Annual)	13	\$16,550
Class A (Single-Trip)	42859	\$1,329,795
Class A (30-Day)	13301	\$629,370
Class A Mobile Home (Single-Trip)	11155	\$164,925
Class A Western Regional (Single-Trip)	1	\$15
Class B (30-Day)	1138	\$34,110
Class B (Annual)	209	\$68,040

<b>Permit Classification</b>	<b>Permits Issued</b>	<b>Highway User Revenue Fund</b>
Class C (Single-Trip)	4451	\$331,325
Class C Mobile Home (Single-Trip)	2723	\$80,745
Class C Tridem Axle (Single-Trip)	1706	\$150,600
Class D (Single-Trip)	0	\$0
Class D (30-Day)	466	\$34,425
Class D (Annual)	227	\$125,400
Class E (Single-Trip)	12	\$825
Class E (30-Day)	831	\$61,350
Class E (Annual)	1535	\$606,480
Class G (Single-Trip)	12	\$180
Class G (30-Day)	1	\$30
Class G (Annual)	0	\$0
Class H (Annual)	73	\$3,195
<b>Totals</b>	<b>82,093</b>	<b>\$4,854,485</b>

The Department intends to begin collecting permit and trip data from all permittees or drivers using the new class C annual envelope permit with tridem axle group configurations as introduced under R17-6-505. The Department's traffic, bridge, pavement, and maintenance engineers will use the collected data to analyze and quantify infrastructure consumption costs associated with the extended use of tridem axle group configurations. Permittees and drivers subject to this new data collection requirement will be able to easily complete the required electronic notification process through the Department's website.

In support of these necessary special permit issuance requirements, the Department currently maintains a modernized, mobile-friendly, Arizona 511 Traveler Information System website that uses the latest technology to provide a customized experience with real-time updates. The AZ511.gov website allows users to save their favorite routes and their most used traffic cameras. Before leaving for a destination, each permittee or driver is required under these rules to log on to AZ511.gov and review all incident alerts relative to their intended route, get estimated travel times to their destination, and receive information regarding any detours or alternate routes that may be necessary. A permittee or driver may set up automatic text or email alerts to receive real-time updates on any incidents that may affect transport along their intended route. A permittee or driver may also call the Department's 511 phone line to hear personalized updates. The 511 phone line is now easier to navigate and the voice recognition software has been upgraded.

The Department has determined that the benefits of these rules far outweigh the costs of the rules and anticipates that all affected businesses will experience an unquantifiable, but welcome, financial benefit as a result of the Department's ability to issue special permits authorizing increased weight allowances on more routes for vehicles, or vehicle and load combinations, equipped with at least one tridem axle group configuration.

Additionally, this rulemaking supports appropriately scaled, sustainable, forest product industries currently working throughout the state to safeguard the health, safety, and welfare of visitors to the National Forests and any residents of the surrounding communities by reducing unnecessary fuel loads for the elimination of, or a significant reduction in, any future possibility of fueling devastating forest fires. These industries strengthen local economies while conserving natural resources and aesthetic values across the state.

This rulemaking allows the Department to provide the sustainable forest product industry with a more cost-effective way to move or remove natural forest products or biomass in direct support of the Department's ongoing cooperative efforts with the U.S. Forest Service, the Arizona Department of Forestry and Fire Management, county officials, and Arizona cities and towns. These ongoing efforts help to mitigate the effects of wildfires, correct damages, and provide other improvements necessary for the successful management of forest health by making it easier for these businesses to engage in activities designed to:

- Increase forest resiliency and sustainability;
- Reduce risk of undesirable fire effects;
- Improve terrestrial and aquatic species habitats;
- Improve conditions and functionality of streams and springs;
- Restore woody riparian vegetation; and
- Preserve cultural resources.

All of these businesses play a key role in achieving the goals of Arizona's Four Forest Restoration Initiative by harvesting, processing, and selling wood products, thereby reducing treatment costs and providing additional economic opportunities.

Arizona's motoring public will experience no direct costs as a result of this rulemaking, but may experience the unquantifiable benefits the rules provide in maintaining general highway safety measures and supporting cost abatement in the preservation and integrity of the State Highway System infrastructure.

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

The Department made no changes between the proposed rulemaking and the final rulemaking.

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

The Department received no public stakeholder comments regarding this 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:**

These rules support the Department's obligation to develop easily understandable publications of the laws, rules, and Department policies relating to commercial motor vehicles, trailers, and vehicle combinations as required under A.R.S. § 28-1111 for publication on the Department's website. The updates and other amendments made by the Department in this rulemaking continue to support the Multistate Highway Transportation Agreement for governing truck size and weight configurations throughout the Western Region of the United States. This agreement helps the Department to:

Promote the uniform laws and regulations adopted by the Policy Committee of the Western Association of State Highway and Transportation Officials (WASHTO) in June 2004 and updated in March 2009;

Ensure a high level of safety for all highway users;

Protect the public investment in Arizona's transportation infrastructure; and

Preserve the state's 18,488 miles of roadways, highways, and freeways containing over 27,000 highway lane miles across 17 districts statewide.

All transporters subject to this rulemaking are additionally subject to all other federal and state motor carrier safety and hazardous materials regulations currently applicable to Arizona motor carriers.

This rulemaking introduces a new 30-day or annual class C envelope permit that the Department may issue for operation of a non-specific and non-reducible vehicle or vehicle and load combination that uses one or more tridem axle groups to meet the envelope permit dimensions prescribed under A.R.S. § 28-1144. However, use of the annual envelope permit to transport these overweight, or oversize and overweight, vehicles or vehicle and load combinations is contingent on the permit holder's ability to electronically report additional trip-related information to the Department before transport begins. Electronic notification to the Department requires a permittee or driver to enter only the basic trip-related information and is accomplished completely online through the Department's electronic permitting system:

1. For analyzing the number and types of overweight vehicles and loads that continuously rely on access to the State Highway System;
2. For monitoring the unpredictable effects those vehicles and loads are having on the Department's ongoing pavement preservation efforts; and
3. For quantifying infrastructure consumption costs reasonably attributable to the operation of each type of overweight or oversize and overweight vehicle.

Without this information, the Department may no longer be able to justify maintaining overweight rules that are less stringent than the federal rules created to protect the public investment in transportation infrastructure.

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

These rules detail the eligibility, application, and use requirements of a variety of special permits the Department issues to commercial motor carriers for movement of vehicles or vehicle and load combinations exceeding the maximum size or weight limitations provided by statute. Those statutes also provide specific authority for issuance, conditions, restrictions, approvals, and fees for each of the special permits issued by the Department under these rules.

The Department has fully analyzed these rules for compliance with the general permit issuance requirement provided under A.R.S. § 41-1037, and determined that the oversize, overweight, or oversize and overweight special permits issued under these rules are “general permits” in that each permittee issued a particular class of permit is subject to the same activities, practices, requirements, and restrictions applicable to that permit type.

However, safe movement of specialized vehicles and loads throughout the state requires detailed coordination and implementation of complex operations involving many variables, the Department may need to collect more specific information from certain permit holders operating under these rules to make informed decisions on how best to facilitate safe movement and ensure that all appropriate precautions are in place for the preservation of public safety and transportation infrastructure. Certain instances, which generally involve applications submitted for a class C or class E special permit, or when exigent circumstances exist that may require special consideration by the Department or further coordination with the Arizona Department of Public Safety, may fall outside the criteria for general permit issuance and would be an exception to the general permit issuance requirement provided under A.R.S. § 41-1037.

Additionally, under certain circumstances the rules may require additional application for an encroachment permit under A.R.S. § 41-1037 and 17 A.A.C. 3, Article 5, setting forth specific instances in which encroachment permits may be granted and allowing the Department to approve or disapprove an application outside the criteria of these rules. Since some requirements for obtaining an encroachment permit are generally applicable to all encroachment activities while others are specific to the encroaching activity under consideration, the issuance of a general permit as required under A.R.S. § 41-1037, may not always be technically feasible.

**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:**

This rulemaking provides commercial motor vehicle owners, operators, and drivers with reasonable access to all state and federal highways and routes under the jurisdiction of the Department for interstate and intrastate operations subject to numerous federal laws and regulations designed to facilitate commerce and protect the public investment in transportation infrastructure. The following

federal regulations are applicable to the subject matter of the rules, but the rules are not more stringent than any of the applicable federal laws relating to the allowable size of a vehicle and load under 49 U.S.C. §§ 31111, 31112, 31113, and 31114, or the implementing regulations found under 23 C.F.R. Part 658. Federal weight laws are codified under 23 U.S.C. § 127 and implemented under 23 CFR 658, Appendix C of 23 CFR 658, 49 CFR 393.5, 49 CFR 393.11, and Table 1 of 49 CFR 393.11.

The Department's rules are subject to review by the U.S. Secretary of Transportation, as provided under 49 U.S.C. § 31141, Review and Preemption of State Laws and Regulations. If the Secretary determines that a state law or regulation is less stringent than a regulation prescribed by the Secretary under 49 U.S.C. § 31136, the state law or regulation may not be enforced. Conversely, if the Secretary determines that the Department is not adequately enforcing all state laws respecting maximum vehicle sizes and weights on highways which, prior to October 1, 1991, were designated as part of the Federal-aid Interstate, Federal-aid primary, Federal-aid secondary or Federal-aid urban systems, the Federal-aid funds for the National Highway System apportioned to the state for the next fiscal year will be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the state under 23 U.S.C. § 104, and/or by the amount required pursuant to 23 U.S.C. § 127.

However, the Department is able to issue special permits using the less stringent maximum permitted weight computations provided under R17-6-411, and Tables 3.01 through 3.09, when issuing an overweight or oversize and overweight special permit for movement of a non-reducible vehicle or load under these rules. The "grandfather" provisions in the Federal-Aid Highway Act amendments of 1974, allow the Department to continue issuing special permits using axle spacing tables that yield higher weights for groups of axles spaced within 3 feet 5 inches and 18 feet since the Tables were enacted prior to the amendments. The Department's axle spacing Tables are an expansion of the Federal Bridge Formula B weights authorized by the Federal Highway Administration and A.R.S. § 28-1100 for use on the National Highway System and are used by the trucking industry for determining the axle spacing needed to appropriately distribute excess weight across multiple groups of axles.

49 U.S.C. § 31141 provides that if the U.S. Secretary of Transportation decides that a state law or regulation is additional to, or more stringent than, a regulation prescribed by the Secretary under 49 U.S.C. § 31136, the state law or regulation may be enforced unless the Secretary also decides that: (A) the state law or regulation has no safety benefit; (B) the state law or regulation is incompatible with the regulation prescribed by the Secretary; or (C) enforcement of the state law or regulation would cause an unreasonable burden on interstate commerce.

**c. Whether a person submitted an analysis to the agency regarding the rule's impact of the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:**

No analysis was submitted to the Department.

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

This rulemaking incorporates no materials by reference.

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

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

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

**TITLE 17. TRANSPORTATION**  
**CHAPTER 6. DEPARTMENT OF TRANSPORTATION**  
**OVERSIZE AND OVERWEIGHT SPECIAL PERMITS**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R17-6-101. General Provision; Definitions; Time of Day
- R17-6-102. Threshold Dimensions; Special Permit Exemptions
  - Table 1. Threshold Dimensions
- R17-6-103. General Application Procedure for Special Permits
- R17-6-104. Additional Special Permit Requirements and Restrictions; Engineering Analysis
- R17-6-105. Special Permit Limitation
- R17-6-106. Special Permit Extension
- R17-6-107. Special Permit Confiscation
- R17-6-108. ~~Traffic Control~~ Route Survey and Contingency Plan
- R17-6-109. Special Permit Denial
- R17-6-112. Emergency Operation Provision
- R17-6-113. Electronic Access to Local Permit Ordinances and Rules

**ARTICLE 2. SPECIAL PERMIT CLASSES AND FEES**

Section

- R17-6-201. Class A Oversize and Overweight Special ~~Permits~~ Permit - ~~Specified~~ Specific Non-reducible Vehicle, Load, or Combination
- R17-6-202. ~~Class B Oversize Special Permit - Specified Non-reducible Vehicle and Load Combination~~ Repealed
- R17-6-203. ~~Class B - Type R~~ A - Oversize Recreational Vehicle Special Permit - Commercial Transport
- R17-6-204. Renumbered
- R17-6-205. Class ~~B~~ A - Crane Oversize and Overweight Special Permit - Self-propelled Mobile Crane, Drilling Rig, or Similar Specialty Equipment
- R17-6-206. Class E Oversize and Overweight Special ~~Permits~~ Permit - Reducible Multiple Trailer ~~LCVs~~ LCV
  - Table 2. Class E LCV Special Permit and Issuance Criteria
- R17-6-207. ~~Repealed~~ Suspension of Length Restrictions and Weight Limitations on State Routes and Highways;  
Healthy Forest
- R17-6-208. ~~Class G Overwidth Special Permits - Specified Vehicle or Combination with Reducible Load Over Legal Width~~ Repealed
- R17-6-209. Class ~~H~~ Overwidth A - Watercraft Special Permit - ~~Specified~~ Specific Vehicle and Overwidth Watercraft Load Combination
- ~~R17-6-413;~~ R17-6-210. Page-Lake Powell Area Houseboat Transport Provisions
  - ~~Table 5;~~ Table 5. Page-Lake Powell Area Highways

- R17-6-211. ~~Western Regional Permit~~ Repealed
- ~~R17-6-204~~R17-6-211. Class C Oversize and Overweight Special Permits - ~~Specified~~ Specific Non-reducible Vehicle, Load, or Combination Over Class A Limits
- R17-6-212. Class C Overweight, or Oversize and Overweight, Special Permit - Tridem Axle Group Configurations
- Table 6. ~~Class C Overweight, or Oversize and Overweight, Special Permit Routes and Restrictions for Tridem Axle Group Configurations~~ Repealed
- Table 7. ~~Maximum Permitted Weight Computations: Tridem Axle Group Configurations~~ Repealed

### ARTICLE 3. SAFETY REQUIREMENTS

- Section
- R17-6-302. Warning Flag Requirements
  - Ill. 1. Warning Flag Configurations
- R17-6-303. Sign Requirements
- R17-6-304. Safety Lighting Device Requirements
  - Ill. 4. Safety Lighting Configurations
- R17-6-305. Escort Vehicles
- R17-6-306. Traffic Control Provisions
- R17-6-307. Projecting ~~Load or Vehicle~~ or Load

### ARTICLE 4. TRANSPORT PROVISIONS

- Section
- R17-6-401. General Highway Operations
- ~~R17-6-402~~: ~~Speed Restriction~~ Repealed
- ~~R17-6-408~~R17-6-402. ~~Continuous Travel~~ Night and Weekend Transport
- ~~R17-6-406~~R17-6-403. Holiday Transport Restriction
- R17-6-404. Metropolitan Curfew Transport ~~Restriction~~
- ~~R17-6-405~~: ~~Weekend Transport Allowance~~ Repealed
- ~~R17-6-403~~R17-6-405. Weather Restrictions; Hazardous Conditions
- ~~R17-6-406~~. Renumbered
- R17-6-407. Route-specific and Permit-specific Transport Restrictions
- ~~R17-6-408~~. Renumbered
- ~~R17-6-409~~: ~~Night Transport Restriction~~ Repealed
- ~~R17-6-414~~R17-6-409. Lake-specific Weekend and Holiday Transport Exception
- R17-6-411. Maximum Permitted Weights
  - Ill. 3. Overweight Axle Group Weight Calculation
- Table 3.01. ~~Maximum Permitted Weight Computations: Axle Width - 8 Feet~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 0 Inches

- Table 3.02. ~~Maximum Permitted Weight Computations: Axle Width - 8 Feet 3 Inches~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 3 Inches
- Table 3.03. ~~Maximum Permitted Weight Computations: Axle Width - 8 Feet 6 Inches~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 6 Inches
- Table 3.04. ~~Maximum Permitted Weight Computations: Axle Width - 8 Feet 9 Inches~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 9 Inches
- Table 3.05. ~~Maximum Permitted Weight Computations: Axle Width - 9 Feet~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 0 Inches
- Table 3.06. ~~Maximum Permitted Weight Computations: Axle Width - 9 Feet 3 Inches~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 3 Inches
- Table 3.07. ~~Maximum Permitted Weight Computations: Axle Width - 9 Feet 6 Inches~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 6 Inches
- Table 3.08. ~~Maximum Permitted Weight Computations: Axle Width - 9 Feet 9 Inches~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 9 Inches
- Table 3.09. ~~Maximum Permitted Weight Computations: Axle Width - 10 Feet~~ Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 10 Feet 0 Inches

~~III-3.~~ Overweight Axle Groups Repealed

- R17-6-412. Highway-specific Restrictions, Requirements, Conditions, and Allowances
- Table 4. Permanent Highway Restrictions, Requirements, Conditions, and Allowances
- ~~R17-6-413.~~ Renumbered
- Table 5. Renumbered
- ~~R17-6-414.~~ Renumbered

**ARTICLE 5. ENVELOPE PERMIT SPECIAL PROVISIONS**

Section

- ~~R17-6-501.~~ General Provisions: Definitions
- ~~R17-6-210.~~~~R17-6-502.~~ Envelope Permits Permit - Non-specific and Non-reducible Vehicle or Load
- ~~R17-6-503.~~ Envelope Permit - General Application Procedure
- ~~R17-6-504.~~ Envelope Permit - Class C Tridem Axle Group Configurations
- ~~R17-6-505.~~ Envelope Permit - Trip Authorization Process for Class C Tridem Axle Group Configurations
- R17-6-506. Page-Lake Powell Area Houseboat Hauling Envelope Permit
- ~~R17-6-501.~~~~R17-6-507.~~ Envelope Permit Required Recordkeeping
- ~~R17-6-502.~~~~R17-6-508.~~ Envelope Permit Suspension Point System
- ~~R17-6-503.~~~~R17-6-509.~~ Envelope Permit Suspension; Revocation; Enforcement
- ~~R17-6-504.~~~~R17-6-510.~~ Notice of Point Assessment, Denial, Suspension, or Revocation
- ~~R17-6-505.~~~~R17-6-511.~~ Envelope Permit Reapplication

## ARTICLE 1. GENERAL PROVISIONS

### R17-6-101. General Provision; Definitions; Time of Day

- A. General Provision. The Department shall issue and regulate oversize and overweight special permits as provided under this Chapter. The Department implements these Sections under authority of A.R.S. §§ 28-366, 28-1103, 28-1104, and 28-7045, in collaboration with the Overdimensional Permit Council as prescribed under A.R.S. § 28-1150.
- B. Definitions. In addition to the definitions prescribed under A.R.S. §§ 28-101 and 28-601, the following terms apply to this Chapter, unless otherwise specified:

“AASHTO” means the American Association of State Highway Transportation Officials.

“ADOT” means the Arizona Department of Transportation.

“Applicant” means a person or entity seeking to obtain a special permit or envelope permit from the Department under A.R.S. Title 28, Chapter 3, Article 18 or 19, and this Chapter.

“Appurtenance” means any not readily removable manufacturer-installed or dealer-installed fixture attached to a vehicle or load that increases a peripheral dimension of the vehicle or load.

“Arizona Central Commercial Permits Office” means the statewide ADOT ECD office ~~for~~ identified on the Department’s website as a location available for oversize and overweight special permit and envelope permit applications and information, application, and issuance.

~~1225 N. 25th Avenue~~

~~Phoenix, Arizona 85009~~

~~Voice line: (602) 712-8851~~

~~Facsimile: (602) 272-1887~~

~~Internet: [www.azdot.gov/mvd/commercialenforcement/permrequest-forms.asp](http://www.azdot.gov/mvd/commercialenforcement/permrequest-forms.asp)~~

“Cargo carrying unit” has the same meaning as prescribed under A.R.S. § 28-1103.

“Certified law enforcement officer” means a person who is an active duty Arizona peace officer standards and training board certified peace officer.

“Class C ~~Maintenance Permit Services~~ Unit” means the statewide ADOT office for class C oversize and overweight special permit applications and information:

206 S. 17th Avenue, Mail Drop 004R

Phoenix, AZ 85007

Voice: (602) 712-8176 or (602) 712-8280

Fax: (602) 712-3380

Internet: [www.azdot.gov](http://www.azdot.gov)

“Combination ~~vehicle~~ of vehicles” has the same meaning as prescribed under A.R.S. § 28-101, ~~“combination of vehicles,” but excludes~~ which does not include a mobile home.

“Continuous travel” means ~~to operate a vehicle continuously throughout any 24-hour period, except as provided under R17-6-404~~ the ability to operate or transport an oversize, overweight, or oversize and overweight special permitted vehicle that meets all of the size and weight parameters provided by the Department under R17-6-205(B), R17-6-401(A), and R17-6-412, Table 4, at any time, 24 hours a day, 7 days a week.

“Department’s website” means www.azdot.gov.

“ECD” means ~~ADOT’s~~ the Enforcement and Compliance Division of the Arizona Department of Transportation.

“Emergency vehicle” and “Emergency response vehicle” mean the same as prescribed under 23 U.S.C. § 127, which includes a vehicle designed to be used under emergency conditions to:

Transport personnel and equipment; and

Support the suppression of fires and mitigation of other hazardous situations.

“Envelope” has the same meaning as prescribed under A.R.S. § 28-1141, and encompassing encompasses the outermost dimensions of a ~~load or~~ vehicle or vehicle and load combination as prescribed under A.R.S. § 28-1144, without exceeding the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411.

“Envelope permit” has the same meaning as prescribed under A.R.S. § 28-1141, and as further prescribed under A.R.S. § 28-1144, which when issued by the Department for a vehicle or vehicle and load combination:

Restricts the all loads to non-reducible only,

Allows unlimited trips within the permit’s period of validity period,

Allows the permitted carrier unlimited load changes,

Requires a each transported load to meet all envelope dimensional criteria,

Restricts operation to certain routes, and

~~Excludes the~~ Makes the permit inapplicable for use in transporting of a modular or mobile home.

“Escort” has the same meaning as prescribed under A.R.S. § 28-601, “escort vehicle.”

“Established place of business” means a permanent site or location where an oversize or overweight special permit or envelope permit holder conducts business.

“Highway” has the same meaning as prescribed under A.R.S. § 28-101, “street” or “highway.”

“Highway feature” means a roadway, structure, traffic control device, right-of-way, or any item connected with highway travel.

“Houseboat” means any large non-reducible watercraft, including a yacht, which when hauled on a vehicle issued an envelope or special permit by the Department as provided under A.R.S. § 28-1144(B), and this Chapter, will not exceed any allowable size or weight indicated on the permit.

“IFTA license” means an interstate user license issued by an applicant’s base jurisdiction for fuel tax purposes under the International Fuel Tax Agreement as provided under A.R.S. Title 28, Chapter 16, Article 2, for operation of a use class motor vehicle that is not a recreational vehicle, but is a motor vehicle or vehicle combination designed, used, or maintained primarily for the transportation of persons or property, and:

Has two axles and a gross vehicle weight rating or declared gross vehicle weight of 26,001 pounds or more;

Has three or more axles regardless of weight; or

Has a gross combined weight rating or declared gross combined weight of 26,001 pounds or more.

“Interstate Highway System” means any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways located within the boundaries of this state, officially designated by the state transportation board, and approved by the United States Secretary of Transportation pursuant to 23 United States Code.

“Law enforcement escort” means a uniformed certified law enforcement officer in a fully marked patrol vehicle that accompanies an oversize or overweight special permitted vehicle.

“LCV” means longer combination vehicle, which has the same meaning as prescribed under 23 CFR 658.5.

“Legal weight” means within the maximum gross weight limitations prescribed under A.R.S. § 28-1100 and R17-6-102, Table 1.

“Mobile home” has the same meaning as prescribed under A.R.S. § 28-2001, which ~~encompasses both~~ may include a mobile home, and a manufactured home, or a factory-built building as more specifically prescribed under A.R.S. § ~~41-2142~~ 41-4001, if used in the same context as a mobile home prescribed under A.R.S. § 28-2001.

“Motor home” has the same meaning as prescribed under A.R.S. § 28-4301.

“Mountain Standard Time” means the standard time in Arizona as prescribed under 49 CFR 71 and A.R.S. § 1-242.

“National Network” has the same meaning as prescribed under A.R.S. § 28-1092, designated under A.R.S. § 28-1093(C), and detailed under:

23 CFR 658, appendix A, for movement of a vehicle, combination of vehicles, or vehicle and load combination exceeding an overall length or width limitation provided under R17-6-102, Table 1; or

23 CFR 658, appendix C, and A.R.S. § 28-1095(F), for movement of longer combination vehicles exceeding a size or weight limitation provided under R17-6-102, Table 1.

“Natural forest products” include raw or unfinished logs, timber, pulpwood, biomass, wood chips, etc.

“Non-articulated” means any segment of a vehicle or combination of vehicles constructed or configured without hinged mechanisms, bendable joints, or other flexible points of pivot, swivel, or turning, which

may hinder or prevent vertical or horizontal movement during transport or while attempting to negotiate turns.

“Non-reducible” or “non-reducible load or vehicle” has the same meaning as prescribed under 23 CFR 658.5, “nondivisible load or vehicle,” which applies to any load or vehicle exceeding an applicable length or weight limit that if separated into smaller loads or vehicles would:

1. Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;
2. Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or
3. Require more than eight workhours to dismantle using appropriate equipment, with the applicant having the burden of proof as to the number of workhours required to dismantle the load.

“Oversize” means a size of vehicle, combination of vehicles, or vehicle and load combination that exceeds a maximum legal size limitation provided under A.R.S. Title 28, Chapter 3, Article 18 or 19.

“Over-the-road bus” has the same meaning as prescribed under A.R.S. § 28-1099.

“Overweight” means a weight of vehicle, combination of vehicles, or vehicle and load combination that exceeds a maximum legal weight limitation provided under A.R.S. Title 28, Chapter 3, Article 18 or 19.

“Permittee” means a person or entity to whom the Department issues an oversize or overweight special permit or envelope permit under this Chapter, and who is responsible for meeting the obligations, responsibilities, and specifications indicated on the permit.

“Person” has the same meaning as prescribed under A.R.S. § 28-5201.

~~“Pounds per inch of tire width” means a measure of load restriction based on rated tire size, which is determined by dividing the weight carried by an axle group, in pounds, by the number of tires in the group and dividing that result by the manufacturer’s rated tire width indicated on the sidewall of the tire, or in the absence of sidewall marking, the load rating specified in any publication of an organization listed under 49 CFR 571.119, Federal Motor Carrier Safety Standard No. 119.~~

“Power unit” has the same meaning as prescribed under A.R.S. § 28-1141.

“Public weighmaster” has the same meaning as prescribed under A.R.S. § ~~41-2051~~ 3-3401.

“Special permit” means a document issued by the Department under A.R.S. § 28-1103, which authorizes ~~the a permittee or driver~~ to operate or transport an oversize, overweight, or oversize and overweight vehicle, combination of vehicles, or vehicle and load combination on ~~a state highway~~ the State Highway System, subject to the terms and conditions of the permit issued.

“Special permitted vehicle” means the vehicle, combination of vehicles, or vehicle and load combination described to the Department by a special permit applicant on application for a special permit, as required under A.R.S. § 28-1104 on application for a special permit, the description of which is then recorded on the Department’s computer systems for analysis, approval, and subsequent documentation on any special permit issued by the Department.

“Specified load” means the dimensions and weights a special permit applicant declares to the Department, as provided under A.R.S. § 28-1104, regarding any item or series of items to be transported throughout an entire permit period.

“State Highway System” means all state routes and state highways owned, operated, and maintained by the Department as designated by the state transportation board under A.R.S. § 28-304(B)(2), including all U.S. routes and Interstate highways located within the boundaries of this state.

“Sunrise” and “sunset” have the same meaning and daily calculation as prescribed by the United States Naval Observatory (USNO), which:

The Department uses to determine normal permit transport start and stop times as provided under R17-6-401; and

An interested person may access ~~on the Internet from the USNO at <http://aa.usno.navy.mil>~~ online at [aa.usno.navy.mil](http://aa.usno.navy.mil), or in hardcopy format from the Arizona Central Commercial Permits office Office or any Arizona Port of Entry location listed on the Department’s website.

“Tandem axle” has the same meaning as prescribed under A.R.S. § 28-1100(B).

“TI” means traffic interchange, which is a junction of roadways arranged to allow for the free flow of traffic uninterrupted by crossing traffic routed over or under the main roadway.

“Towaway trailer transporter combination” means a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers as inventory of the trailer or semitrailer manufacturer, distributor, or dealer, and the total weight of the combination plus any property carried does not exceed 26,000 pounds.

“Trailer transporter towing unit” means a power unit that is not used to carry property when in a towaway trailer transporter combination.

“Tridem axle” means a group of three axles connected by a common suspension system, or any three consecutive axles whose extreme centers are not more than 144 inches may be included between parallel transverse vertical planes spaced nine to fourteen feet apart, extend across the width of the vehicle, and are individually attached to, or articulated from, a common attachment to the vehicle, including a connecting mechanism or are designed to automatically equalize the load between the three axles.

“USDOT number” means the motor carrier identification number, assigned to a company by the U.S. Department of Transportation’s Federal Motor Carrier Safety Administration, preceded by the letters USDOT.

“Use class motor vehicle” has the same meaning as prescribed under A.R.S. § 28-5601.

“UX” means a temporary highway or route segment designated by the Department as:

A segment of highway no longer part of the mainline U.S. system of highways, but still owned and maintained by the Department; or

A portion of a U.S. Route affected by mining operations and subject to realignment by the mining company as the mine expands operations.

“Watercraft” has the same meaning as prescribed under A.R.S. § 5-301 that is properly registered with the Arizona Game and Fish Department or the U.S. Coast Guard.

- C. Time of Day. In this Chapter, a time of day prescribed is Mountain Standard Time as defined under subsection (B) except where ~~a state highway~~ a route on the State Highway System traverses a tribal nation that adopts Daylight Saving Time under 49 CFR 71.2.

**R17-6-102. Threshold Dimensions; Special Permit Exemptions**

- A. Unless exempt under this Section or A.R.S. § 28-1091(C), § 28-1093(D), or § 28-1095(A)(6), a person shall obtain and carry an oversize or overweight special permit issued by the Department under this Chapter if transporting a vehicle or load exceeding any dimension provided under Table 1 ~~on a state highway under the jurisdiction of the Department~~ using any route on the State Highway System.
- B. A permittee and a driver of an oversize or overweight special permitted vehicle shall comply with all applicable:
  - 1. Safety requirements provided under Article 3, and
  - 2. Transport provisions provided under Article 4.
- C. An oversize or overweight special permit is not required if crossing a ~~state highway~~ route on the State Highway System at a level grade and no highway structures are involved.
- D. An oversize or overweight special permit is not required for snow removal equipment operated by one of the following:
  - 1. An Arizona state agency,
  - 2. An Arizona county,
  - 3. An Arizona city, or
  - 4. An Arizona municipality other than a city.
- E. The special permit exemption provided under subsection (D) applies only to snow removal equipment traveling on its own wheels and:
  - 1. Operating for the purpose of clearing snow or ice,
  - 2. Traveling to a facility for repair, or
  - 3. Traveling to a location used for the purpose of loading or unloading de-icing materials.
- F. The operator of an oversize or overweight vehicle exempt from the special permit requirement under this Section shall comply with all applicable safety requirements provided under Article 3 unless otherwise prescribed by statute.

**Table 1. Threshold Dimensions**

The Department ~~shall~~ may issue an applicable class of special permit, as provided under Article 2, for ~~each~~ transporting on the State Highway System a vehicle, combination of vehicles, or vehicle and load combination; exceeding any of the following maximum limits:

<del>Width (A.R.S. § 28-1093)</del>
-------------------------------------

Vehicles operating on the state highway system designated by the Transportation Board under A.R.S. § 28-304(B)(2)		8' 6" (8' if the maximum width of the route is further restricted under R17-6-412, Table 4)
<b>Height (A.R.S. § 28-1094)</b>		
Vehicles operating on the state highway system designated by the Transportation Board under A.R.S. § 28-304(B)(2)		14' (13' 6" if the maximum height of the route is further restricted under R17-6-412, Table 4)
<b>Length (A.R.S. §§ 28-1095 and 28-1097)</b>		
Straight trucks		40'
Truck tractor - semitrailer combination or Truck tractor - semitrailer - forklift combination	Interstate system	57' 6" semitrailer
Truck tractor - semitrailer combination or Truck tractor - semitrailer - forklift combination	Other highways	53' semitrailer, or 65' overall combination if more than 53'
Truck tractor - semitrailer - full trailer combination		28' 6" per trailer
Vehicle transporter combination		75'
Overhang	Front of vehicle	3'
	Rear of vehicle or trailer	6'
<b>Weight (A.R.S. § 28-1100)</b>		
Allowable weight shall be determined using the listed limits or the manufacturer's weight rating, whichever is less.		
Single axle		20,000 lbs.
Tandem axle		34,000 lbs.
Steering axle		20,000 lbs.
Gross weight, five axles or more Maximum allowable axle group weights are computed using the formula prescribed under A.R.S. § 28-1100(A)(4)		80,000 lbs.

<b>Width (A.R.S. § 28-1093)</b>		<b>Height (A.R.S. § 28-1094)</b>	
8' 6" (8' if the maximum width of the route is further restricted under R17-6-412, Table 4)		14' (13' 6" if the maximum height of the route is further restricted under R17-6-412, Table 4)	
<b>Length (A.R.S. §§ 28-1095 and 28-1097 and 23 CFR 658.13)</b>			
Legal for travel on the State Highway System, the Interstate Highway System, the federally-designated National Network of highways and routes listed under 23 CFR 658, App. A, and other highways and routes located within ten miles of an Interstate highway.			
Overhang		Front of vehicle	3'
		Rear of vehicle or trailer	6'
Straight truck		40'	

<u>Bus, or recreational vehicle as defined in A.R.S. § 41-4001(30)(b), if non-articulated</u>	<u>45'</u>
<u>Truck equipped with a conveyor bed and used solely as a fiber and forage module mover</u>	<u>48'</u>
<u>Truck tractor - semitrailer combination</u> <u>Truck-tractor - semitrailer - forklift combination</u>	<u>National Network</u> <u>57' 6" semitrailer</u>
<u>Truck tractor - semitrailer combination</u> <u>Truck-tractor - semitrailer - forklift combination</u>	<u>All other highways and routes of the State Highway System</u> <u>53' semitrailer; or 65' overall combination if semitrailer is more than 53'</u>
<u>Truck tractor - semitrailer - trailer combination</u> <u>Truck tractor - semitrailer - semitrailer combination (B-train)</u>	<u>28' 6" per semitrailer or trailer; or 65' overall combination</u>
<u>Truck - trailer combination</u> <u>Truck - forklift combination</u> <u>Truck - semitrailer combination</u>	<u>28' 6" trailer; or 65' overall combination</u>
<u>Bus or trolley coach, if articulated</u>	<u>60' overall combination</u>
<u>Pole trailer with non-reducible load (e.g., poles, pipes, structural material, etc.)</u>	<u>80' cargo carrying length</u>
<u>Vehicle or boat transporter combination (stinger-steered)</u> <u>*Measurement of overall combination excludes extendable ramps and an overhang allowance of 4' to the front of the vehicle and 6' to the rear of the semitrailer</u>	<u>80' overall combination*</u>
<u>Towaway trailer transporter combination</u>	<u>82' overall combination</u>
<u>Drive-away saddle mount vehicle transporter combination with up to three saddle mounted vehicles (may include one fullmount)</u>	<u>97' overall combination</u>
<b><u>Weight (A.R.S. §§ 28-1099 and 28-1100 and 23 U.S.C. § 127)</u></b>	
<u>Legal for travel on the State Highway System, the Interstate Highway System, the federally-designated National Network of highways and routes listed under 23 CFR 658, App. A, and other highways and routes located within ten miles of an Interstate highway. Legal weight shall be determined using the listed limits or the manufacturer's weight rating, whichever is less.</u>	
<u>Steering axle</u>	<u>20,000 lbs.</u>
<u>Single axle</u>	<u>20,000 lbs.</u>
<u>Single axle for a motor home; over-the-road bus; or vehicle regularly and exclusively used as an intrastate public agency transit passenger bus</u>	<u>24,000 lbs.</u>
<u>Towaway trailer transporter combination</u>	<u>26,000 lbs. overall combination</u>
<u>Vehicle combination of five axles or more with axle group weights computed using the formula prescribed under A.R.S. § 28-1100(A)(4)</u>	<u>80,000 lbs. overall combination</u>
<u>An electric powered vehicle or a vehicle with an engine fueled primarily by natural gas may exceed any vehicle weight limit (up to a maximum gross vehicle weight of 82,000 pounds) as provided under 23 U.S.C. 127, by an amount that is equal to the difference between the weight of the vehicle attributable to the electric battery system, or the natural gas tank and fueling system carried by that vehicle, and the weight of a comparable diesel tank and fueling system.</u>	

**R17-6-103. General Application Procedure for Special Permits**

~~A. Except as provided under subsections (E) and (F), an applicant shall apply to the Department using one of the following methods:~~

~~1. For an oversize or overweight special permit:~~

~~a. Complete an oversize/overweight special permit application form, available on the Department's web site at [www.azdot.gov](http://www.azdot.gov), and fax, mail, or deliver the written application to the Arizona Central Commercial Permits office at the location provided under R17-6-101, or an Arizona port of entry identified by the Department on its Enforcement Compliance Division - Commercial Vehicle Enforcement Services web page; or~~

~~b. Complete and submit the oversize/overweight special permit application form online at [www.azdot.gov](http://www.azdot.gov) or apply through the Department's electronic service provider if the appropriate permit is available for online purchase.~~

~~2. For an envelope permit:~~

~~a. Complete an envelope permit application form, available on the Department's web site at [www.azdot.gov](http://www.azdot.gov), and fax, mail, or deliver the written application to the Arizona Central Commercial Permits office at the location provided under R17-6-101; or~~

~~b. Submit the written application form to an Arizona port of entry identified by the Department on its Enforcement Compliance Division - Commercial Vehicle Enforcement Services web page.~~

A. Unless otherwise provided in this Chapter, an applicant may apply to the Department as provided under subsection (B) for an oversize, overweight, or oversize and overweight special permit to transport a specific non-reducible vehicle, combination of vehicles, or vehicle and load combination that does not exceed:

1. A class A oversize and overweight special permit limitation provided under R17-6-201;

2. A class C - Tridem special permit limitation provided under R17-6-212; or

3. Any other applicable State Highway System restriction, condition, or allowance prescribed by the Department under R17-6-412, Table 4.

B. An applicant may request a special permit prescribed under subsection (A), by:

1. Completing the electronic application process provided on the Department's website; or

2. Completing an oversize/overweight special permit application form, provided by the Department on its website, and mailing or delivering the written application to the address indicated on the application.

C. Unless otherwise provided in this Chapter, an applicant may request from the Class C Unit a class C special permit, class C - Mobile Home special permit, or Easy C - Mobile Home special permit to transport a specific non-reducible vehicle, combination of vehicles, or vehicle and load combination that exceeds a limit provided under subsection (A), by:

1. Completing the electronic application process provided on the Department's website, or completing a class C oversize/overweight special permit application form, provided by the Department on its website, and mailing the written application to the Class C Unit as indicated on the application; and

2. Following all additional application procedures provided under R17-6-104 and R17-6-211, as applicable.
- D.** An applicant requesting a special permit to transport a self-propelled mobile crane, drilling rig, or similar specialty equipment shall additionally follow the application procedures provided under R17-6-205.
- E.** An applicant requesting a special permit to transport an LCV shall follow the application procedures provided under R17-6-206.
- F.** An applicant requesting an envelope permit shall follow the application procedures provided under Article 5, of this Chapter.
- B.G.** Unless otherwise provided under this Chapter, an applicant for an oversize or overweight special permit ~~or envelope permit~~ shall provide to the Department, at the time of application, all applicable fees and information required by the Department for issuance of ~~the~~ an appropriate class of permit, including:
1. ~~Company~~ Motor carrier related information:
    - a. Name and address of the applicant's principal or established place of business;
    - b. Name, phone number, and email address of an official company representative; and
    - c. USDOT number;
  2. Power unit related information:
    - a. Vehicle make, body style, and year;
    - b. Vehicle identification number;
    - c. Unit number assigned;
    - d. License plate number; and
    - e. Base jurisdiction - state of registration;
  3. Vehicle and load combination related information:
    - a. Trailer plate number(s);
    - b. Total number of axles;
    - c. Overall gross weight;
    - d. Overall length, width, and height; and
    - e. Length of front and rear overhang if applicable;
  4. Load related information:
    - a. Specific load description;
    - b. State and federal routes requested;
    - c. Starting and ending location within the state;
    - d. If the load is overweight:
      - i. Axle spacing measurements,
      - ii. Axle width measurements,
      - iii. Number of tires per axle,
      - iv. Weight measurements per axle, and
      - v. Width of each tire;
    - e. ~~If the load is a mobile home:~~

- i. ~~Complete serial number; and~~
  - ii. ~~Evidence of payment of all applicable ad valorem taxes, as required under A.R.S. § 28-1104, in the form of a 504 tax clearance permit issued by the county in which the mobile home is currently located;~~
5. Load related information for movement of a mobile home shall additionally include:
- a. Manufacturer's name;
  - b. Brand name or model;
  - c. Complete serial number assigned; and
  - d. Evidence of payment of all applicable ad valorem taxes as required under A.R.S. § 28-1104 in the form of a Mobile Home Property Tax Clearance 504 issued by the county in which the mobile home is currently located if movement of the mobile home is being conducted for a reason other than an original sale, exchange, or lease-purchase to a consumer.
- ~~5.6.~~ Proof of valid registration that complies with the requirements of A.R.S. § 28-2153; and
- ~~6.7.~~ Proof of a valid IFTA license that complies with the requirements of A.R.S. § 28-5742, if applicable.
- ~~C.H.~~ An applicant for an oversize or overweight special permit shall certify to the Department that all information provided on the application is true and correct.
- ~~D.~~ An applicant requesting a special permit for transport of a self-propelled mobile crane, drilling rig, or similar specialty equipment shall additionally follow the application procedure provided under R17-6-205.
- ~~E.~~ An applicant requesting a special permit for transport of a specific non-reducible vehicle and load combination with a dimension that exceeds a class A oversize and overweight special permit limitation provided under R17-6-201, or that exceeds the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411, shall follow the application procedures provided under R17-6-104 and R17-6-204.
- ~~F.~~ An applicant requesting a special permit for transport of an LCV shall follow the application procedure provided under R17-6-206.
- I. For the purposes of oversize or overweight special permit application and issuance under this Article for travel on the State Highway System, the term "non-reducible load or vehicle" may include any of the following vehicles, or vehicle and load combinations:
- 1. Casks designed for the transport of spent nuclear materials;
  - 2. Emergency vehicles or emergency response vehicles, including those loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, and being used for the purpose of spreading the material on highways that are or may become slick or icy;
  - 3. Military vehicles transporting marked military equipment or material;
  - 4. Bulk milk transport tankers or trucks carrying fluid milk products; and
  - 5. Vehicles or vehicle and load combinations transporting or removing natural forest products or biomass from certain areas within this state, subject to all terms and conditions set by the Department on issuance of a special permit, as provided under R17-6-207.

**R17-6-104. Additional Special Permit Requirements and Restrictions; Engineering Analysis**

- A. To promote safe transport of oversize and overweight vehicles, combinations of vehicles, or vehicle and load combinations, the Department's Class C ~~Maintenance Permit Services section~~ Unit shall evaluate each class C special permit application to determine, on a case-by-case basis, whether additional permit requirements or restrictions are appropriate and necessary as a condition of permit approval. The Department's decision to require additional permit restrictions shall be based on its consideration of:
1. Bridge capacities;
  2. Load size and weight;
  3. Pavement stress;
  4. Road width, grade, and condition; and
  5. Traffic dynamics of the proposed route.
- B. The Department shall require a special permit applicant to obtain an engineering analysis for transport of an overweight vehicle, combination of vehicles, or vehicle and load combination:
1. Exceeding 250,000 pounds;
  2. Exceeding the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411; or
  3. Exceeding a bridge weight restriction provided under R17-6-412, Table 4.
- C. If the Department requires an engineering analysis of a proposed route as a condition of permit approval, and is unable to dedicate the employee resources necessary to timely complete the required analysis, a special permit applicant may obtain an analysis prepared by a non-Department engineer at the applicant's own expense.
1. An engineer registered by the Arizona State Board of Technical Registration in structural or civil engineering, as prescribed under A.R.S. Title 32, Chapter 1, shall prepare an engineering analysis of the proposed route according to industry standards.
  2. The special permit applicant shall submit to the Department for review any engineering analysis prepared by a non-Department engineer.
  3. An engineering analysis is considered by the Department to be compliant with industry standards if prepared according to the following publications, available on the Department's web site at [www.azdot.gov](http://www.azdot.gov), ~~complies with industry standards~~ website:
    - a. The most recently published edition of the AASHTO Manual for Bridge Evaluation, including all interims, standards, or guidelines;
    - b. The most recently published edition of the AASHTO Load and Resistance Factor Design (LRFD) - Bridge Design Specifications, including all interims, standards, or guidelines; and
    - c. The ADOT Bridge Load Rating Guidelines and Bridge Design Guidelines.  4. The non-Department engineer shall certify that an applicant's overweight vehicle will not overstress or damage any element of:
    - a. A highway structure, or
    - b. Any other state property.

- D. An applicant for a class C special permit shall submit to the Department, at the time of special permit application, all applicable fees required under ~~R17-6-204~~ R17-6-211 for preparation or review of an engineering analysis.
- E. An applicant for a class C special permit may resubmit an engineering analysis approved by the Department within the previous 12 months if:
  1. The size and weight of the applicant's vehicle and load are identical to the previously approved permit application;
  2. The segments of the applicant's proposed route are within the outer limits of the previously approved route; and
  3. The condition of the highway structure or other state property has not changed.
- F. The Department shall conduct a separate review and approval process for each engineering analysis submitted under this Section.
- G. If the applicant's engineering analysis shows that a highway structure will not support the overweight vehicle as requested, the Department shall deny the application for a class C special permit.
- H. If the Department determines that a potential traffic safety risk exists, a class C special permit applicant shall submit to the Department a ~~comprehensive traffic control~~ route survey and contingency plan as provided under R17-6-108.
- I. The Department of Transportation, the Department of Public Safety, or any other law enforcement entity lawfully authorized to provide certified weights may weigh a class C special permitted vehicle and load exceeding 250,000 pounds, or require the applicant to have the vehicle and load weighed as prescribed under A.R.S. § 28-1102.

**R17-6-105. Special Permit Limitation**

~~The Department shall issue oversize and overweight special permits for state highways. An applicant or permittee may apply to the Department for a special permit to transport an oversize, overweight, or oversize and overweight vehicle or vehicle and load combination on any part of the State Highway System as provided under this Chapter. A~~ An applicant or permittee shall apply separately with an other applicable political subdivision subdivisions or tribal nation nations for permission to operate on a county, municipal, or tribal route.

**R17-6-106. Special Permit Extension**

- A. Upon request by a permittee, the Department ~~shall~~ may authorize a one-time extension of up to four days for a single-trip special permit if:
  1. The permittee needs to exchange a permitted vehicle for another due to mechanical failure, or
  2. Transport by the permitted vehicle is delayed by inclement weather.
- B. Except as provided under subsection (C), ~~the special permit extension authorization a permittee may request and receive authorization for the extension provided under subsection (A) is administered by contacting the~~ Department at the telephone number indicated on the special permit,
  - ~~†. By signature of an authorized ECD agent, or~~

2. ~~By telephone in an emergency situation after first contacting Arizona Central Commercial Permits or the Arizona port of entry closest to the affected area as listed on the Department's web site at [www.azdot.gov](http://www.azdot.gov).~~
- C. A special permit extension authorization for a class C special permit is ~~administered only by~~ only available through the Class C Maintenance Permit Services Unit and may be requested by contacting the Department at the telephone number indicated on the special permit.
- D. A ~~class C~~ special permit extension request due to mechanical failure shall include:
  1. A written statement from the repair facility, on company letterhead, referencing the necessary repairs; and
  2. Any new power unit and registration numbers, if applicable.

**R17-6-107. Special Permit Confiscation**

- A. Except as provided under subsection (B), a peace officer designated by the Director under A.R.S. § 28-369 may confiscate an oversize or overweight special permit before its expiration date if the permittee or driver is cited for a violation of this Chapter or A.R.S. Title 28, Chapter 3, Article 18.
- B. The Director may suspend, revoke, and retrieve an envelope permit as provided under A.R.S. § 28-1147 and ~~R17-6-503~~ R17-6-509.

**R17-6-108. ~~Traffic Control~~ Route Survey and Contingency Plan**

- A. To promote safe transport of oversize and overweight vehicles, combinations of vehicles, or vehicle and load combinations, the Department shall evaluate each class C special permit application ~~to determine~~, on a case-by-case basis, to determine whether a potential traffic safety risk exists that may require a ~~comprehensive traffic control route survey and contingency~~ plan as a condition of permit approval. The Department's decision to require a ~~comprehensive traffic control route survey and contingency~~ plan shall be based on its consideration of:
  1. Bridge capacities;
  2. Load size and weight;
  3. Pavement stress;
  4. Road width, grade, and condition; and
  5. Traffic dynamics of the proposed route.
- B. If the Department determines that a potential traffic safety risk exists, a class C special permit applicant shall submit to the Class C Maintenance Permit Services Unit at the time of ~~special permit~~ application, a ~~comprehensive traffic control route survey and contingency~~ plan, which shall prepared as follows address all of the following items:
  1. Identify all roadway features located along the proposed route that may inhibit movement of the vehicle, combination of vehicles, or vehicle and load combination;
  2. Identify all obstructions that may be subject to potential disturbance or damage;
  3. Specify how all structures, delineators, foliage, and official traffic control devices will be managed or avoided;

4. Specify all available pullout points located along the proposed route listed by highway and milepost number;
5. Specify how all side traffic will be managed;
6. Specify the rate of speed at which the load will travel along the proposed route;
7. Specify the approximate times ~~when~~ during which the load ~~will~~ is expected to be in transit; ~~and~~
8. ~~Provide a contingency~~ Specify the plan to be followed in the event of a breakdown; ~~and~~
9. Indicate the estimated time needed to change out a power unit or other special equipment if the Department, through detailed analysis and as a condition of permit approval, requires the use of an additional power unit or other special equipment to ensure safe transport of the proposed load. The Department's decision to require an additional power unit or other special equipment shall be based on its consideration of the:
  - a. Estimated timing involved with clearing a route after a breakdown;
  - b. Expected weather conditions;
  - c. Proximity and availability of reserve resources;
  - d. Size and weight of the load;
  - e. Traffic dynamics of the proposed route; and
  - f. Width, grade, and condition of the roads.

C. As a condition of class C special permit issuance, the Department may require an applicant to coordinate use of one or more law enforcement escorts as needed to ensure public safety while transporting a proposed load.

**R17-6-109. Special Permit Denial**

The Department shall deny an oversize or overweight special permit application, or revoke and confiscate a previously approved special permit, if:

1. The proposed transport route or a structure on the route is:
  - a. Unable to bear the size or weight of the transport vehicle and load according to the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411,
  - b. Under repair, or
  - c. Temporarily closed due to a hazardous condition listed under ~~R17-6-403(B)~~ R17-6-405;
2. An applicant for a permit to transport a mobile home does not provide written proof of ad valorem tax payment or clearance as required under A.R.S. § 28-1104; or
3. The Department determines that the special permit applicant made a material misrepresentation or misstatement on the permit application or any other document submitted to the Department in support of the permit application.

**R17-6-112. Emergency Operation Provision**

A. ~~In time of~~ For a statewide or local emergency that affects public welfare or safety, according to general powers under A.R.S. §§ 28-363(A)(5) and 28-364(B), the Director may authorize transport of an oversize or overweight vehicle or load without a special permit for purposes of relief or repair.

B. For a national emergency, the Director may issue a special permit authorizing operation of a reducible oversize or overweight vehicle, or vehicle and load combination, on the Interstate Highway System if the President has declared an emergency or a major disaster under 42 U.S.C. § 5121. A special permit provided by the Department under this subsection shall be:

1. Issued in accordance with all applicable state laws;
2. Issued exclusively for delivering relief supplies or providing other direct assistance in efforts to help alleviate any damage, loss, hardship, or suffering caused by such event; and
3. Issued to expire not later than 120 days after the date on which the President declares the emergency or major disaster, whichever declaration occurred first.

~~B.C.~~ Authorization for emergency operation under this Section may be obtained by contacting the Arizona port of entry closest to the affected area as listed on the Department's web site at [www.azdot.gov](http://www.azdot.gov) the Department's Traffic Operations Center at 1-800-379-3701.

**R17-6-113. Electronic Access to Local Permit Ordinances and Rules**

A. A local authority that issues oversize and overweight special permits under A.R.S. § 28-1103, and this Chapter, shall ~~make available~~, provide to the Department's ~~Arizona Central Commercial Permits office~~ Class C Unit, an Internet a web link to where the public may use to electronically access the local authority's current ordinances and rules relating to the excess size and weight special permits ~~can be electronically accessed~~.

B. The Department shall immediately post, to its web site at [www.azdot.gov](http://www.azdot.gov), each Internet web link provided by received from a local authority under subsection (A) and A.R.S. § 28-1103 to its website at [www.azdot.gov](http://www.azdot.gov).

C. A local authority shall provide, to the Department's Class C Unit, an electronic copy of all ordinances adopted and enforced by the local authority with respect to highways under its jurisdiction as required under A.R.S. § 28-1103(F), as follows:

1. Email one copy of all applicable local ordinances formatted as a word document (.doc, .docx, .rtf, .pdf, etc.) to [StatewidePermits@azdot.gov](mailto:StatewidePermits@azdot.gov); and
2. Email one copy of any change the local authority is considering, proposing, or making to any applicable local ordinance to [StatewidePermits@azdot.gov](mailto:StatewidePermits@azdot.gov).

D. If a local authority informs the Department of an urgent need for an ordinance to be posted to the Department's website for the protection of public safety, the Department may post the information to its website as proposed, and forward an electronic copy of the proposed ordinance to the Overdimensional Permit Council for further review as required by law.

**ARTICLE 2. SPECIAL PERMIT CLASSES AND FEES**

**R17-6-201. Class A Oversize and Overweight Special Permits ~~Permit~~ - ~~Specified~~ Specific Non-reducible Vehicle, Load, or Combination**

A. The Department shall issue a ~~multiple or~~ single trip, ~~multiple trip~~, or ~~annual~~ class A oversize, overweight, or oversize and overweight special permit according to the following criteria for a ~~specified nonreducible~~ specific non-reducible vehicle, combination of vehicles, or vehicle and load combination that exceeds a dimension provided under R17-6-102, Table 1, but does not exceed the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411, or any of the following maximum limits:

Vehicle or load description	A <u>specific</u> non-reducible <del>specified</del> vehicle or load over a threshold dimension provided under R17-6-102, Table 1, to a maximum:	
	<u>Width</u>	<u>14 feet</u>
	Height	16 feet
	Overall length	120 feet
	<del>Width</del>	<del>14 feet</del>
	Weight	250,000 lbs.
Permit option	<del>Single trip: 96-hour maximum</del>	
	<del>Multiple trip: 30-day maximum</del>	
Standard permit fee for weight not exceeding 80,000 pounds (A.R.S. § 28-1105)	<del>Single trip: 96-hour maximum</del>	\$15
	<del>Multiple trip: 30-day maximum</del>	\$30
	<u>Multiple trip: one year</u>	<u>\$360</u>
Overweight permit fee for weight <del>less than 250,000 pounds but that exceeds</del> <u>exceeding the</u> legal threshold under R17-6-102, Table 1, <del>but not exceeding 250,000 pounds</del> (A.R.S. § 28-1105)	Single trip	\$75
	<del>Multiple trip: 30-day maximum</del>	\$75
	<u>Multiple trip: one year</u>	<u>\$600</u>

- B. An applicant for a class A oversize, overweight, or oversize and overweight special permit shall apply to the Department and submit appropriate fees using the application procedure provided under R17-6-103.
- C. A permittee or driver of an oversize, overweight, or oversize and overweight special permitted vehicle, ~~combination of vehicles, or vehicle and load combination~~ shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated restrictions and requirements.

**R17-6-202. ~~Class B Oversize Special Permit - Specified Non-reducible Vehicle and Load Combination~~ Repealed**

- ~~A. The Department shall issue an annual class B oversize special permit according to the following criteria for multiple trips of a specified non-reducible vehicle and load combination that exceeds a dimension provided under R17-6-102, Table 1, but does not exceed the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411 or any of the following maximum limits:~~

Vehicle or load description	<del>A non-reducible, specified vehicle and load combination (excluding cranes and drill rigs) over a threshold dimension provided under R17-6-102, Table 1, to a maximum:</del>	
	Height	14 feet 8 inches
	Overall length	80 feet
	Width	12 feet 6 inches
	Weight	80,000 lbs.
Permit option	Multiple trip: one year	
Fee (A.R.S. § 28-1105)	\$360	

- ~~B. An applicant for a class B oversize special permit shall apply to the Department and submit appropriate fees using the application procedure provided under R17-6-103.~~
- ~~C. A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated restrictions and requirements.~~

**R17-6-203. Class B - Type R A - Oversize Recreational Vehicle Special Permit - Commercial Transport**

- A. The Department shall issue ~~an annual~~ a class B - Type R oversize A - Oversize Recreational Vehicle special permit according to the following criteria for a commercial transporter of a recreational vehicle that exceeds the width threshold prescribed under A.R.S. § 28-1093 and R17-6-102, Table 1, but does not exceed the following maximum limit:

Vehicle or load description	<del>A dealer, manufacturer, or transporter hauling or driving a recreational vehicle with appurtenances wider than 8 feet, 6 inches, on behalf of a dealer, manufacturer, or consumer</del>
Permit option	<del>For each original permit purchased, up to 24 additional copies of that permit may be issued, all of which are valid for unlimited use by an unlimited number of vehicles throughout a one-year period by the permittee.</del>
Fee (A.R.S. § 28-1105)	\$360 per year

<u>Vehicle or load description</u>	<u>A dealer, manufacturer, or transporter hauling or driving on behalf of a dealer, manufacturer, or consumer a recreational vehicle that exceeds the legal width threshold provided under R17-6-102, Table 1, but is otherwise in conformance with configuration requirements provided under A.R.S. § 28-1093 for excess width attributable to recreational vehicle appurtenances.</u>	
<u>Standard permit fee for weight not exceeding 80,000 pounds (A.R.S. § 28-1105)</u>	<u>Multiple trip: 30-day maximum</u>	<u>\$30</u>
	<u>Multiple trip: one year</u>	<u>\$360*</u>
<u>*For each original annual permit purchased, the Department may issue up to 24 additional copies of that permit, all of which are valid for unlimited use by the permittee throughout the permitted period for an unlimited number of vehicles.</u>		

- B. An applicant for a class ~~B - Type R~~ oversize A - Oversize Recreational Vehicle special permit shall apply to the Department and submit appropriate fees using the application procedure provided under R17-6-103.
- C. A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated restrictions and requirements.

**R17-6-204. Renumbered**

**R17-6-205. Class ~~D A~~ - Crane Oversize and Overweight Special Permit - Self-propelled Mobile Crane, Drilling Rig, or Similar Specialty Equipment**

- A. The Department shall issue ~~an annual~~ a class ~~D A~~ oversize, or overweight, or oversize and overweight special permit ~~according to the following criteria for a specified specific non-reducible self-propelled mobile crane, drilling rig, or similar specialty equipment meeting the dimensional requirements provided under R17-6-201, without exceeding the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411:~~ that exceeds a dimension provided under R17-6-102, Table 1, but is within the class A maximum limits prescribed under R17-6-201.

<u>Vehicle or load description</u>	<u>A self-propelled mobile crane, drilling rig, or similar specialty equipment meeting the dimensional requirements provided under R17-6-201.</u>
<u>Permit option</u>	<u>Multiple trip: one year</u>
<u>Fee (A.R.S. § 28-1105)</u>	<u>\$600 per year</u>

- B. Unless restricted under R17-6-404 or R17-6-412, Table 4, a permittee or driver of a self-propelled mobile crane, drilling rig, or similar specialty equipment issued a special permit under this Section is eligible for continuous travel if the specialty equipment does not exceed any of the following dimensions:

1. 11 feet in width;
2. 14 feet 6 inches in height;

3. 10 feet in length of front overhang;
4. 10 feet in length of rear overhang;
5. 120 feet in overall length; or
6. 250,000 pounds.

~~B.C.~~ An applicant for a class ~~D~~ A - Crane ~~oversize or overweight~~ special permit under this Section shall submit to the Department, with all appropriate fees, an application form provided by the Department that includes all of the following information:

1. Specific dimensions of the vehicle and load combination, including:
  - a. A detailed description;
  - b. A detailed drawing that illustrates all of the following:
    - i. Axle spacing;
    - ii. Axle weight;
    - iii. Axle width;
    - iv. Tires per axle;
    - v. Tire width as designated by the manufacturer;
    - vi. Maximum width to the outside of the axles, excluding any load-induced tire bulge; and
    - vii. Load weight;
  - c. A detailed listing of all equipment to be included, such as counterweights, outriggers, boom position, position of boom dolly, etc.; and
  - d. A table of loads supplied by the manufacturer listing component and total weights;
2. Proof of gross weight:
  - a. For an initial application, a public weighmaster's certificate of weight and measure issued at a certified public scale once the vehicle is equipped and set for highway travel; or
  - b. For a renewal application, a certification by the applicant that no dimension has changed and the vehicle does not exceed the originally certified dimensions or weights;
3. Proof of valid registration that complies with the requirements of A.R.S. § 28-2153;
4. Proof of a valid IFTA license that complies with the requirements of A.R.S. § 28-5742 if applicable; and
5. Documentation of any applicable encroachment permit obtained under 17 A.A.C. 3, Article 5, if the applicant must temporarily move any state-owned highway feature as part of a planned transport.

~~C.D.~~ ~~Conformance to~~ The permittee and driver are responsible for ensuring that the dimensions and weights of a special permitted vehicle remain in compliance with the dimensions and weights certified by the permittee to the Department on application for the permit, and that all permit restrictions and vehicle certification is the sole responsibility of the applicant indicated by the Department on the special permit are followed. Violation of the ~~annual~~ terms of a permit in size, weight, length, height, changing the boom position, dolly position, or trailer position, or any other restriction stated indicated on the permit shall render the permit invalid and no permit fee or portion thereof will be refunded. ~~Annual permits~~ Special permits are non-transferable and non-refundable.

~~D.E.~~ A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated restrictions and requirements.

**R17-6-206. Class E Oversize and Overweight Special Permits Permit - Reducible Multiple Trailer LCVs**  
**LCV**

A. The Department shall issue a class E oversize or overweight special permit according to the types and restrictions listed under Table 2 for transporting reducible loads on the National Network using an LCV consisting of a truck, or truck tractor with semitrailer, and one or more trailers trailing units.

~~1. A person who operates, and a person who causes to be operated, an oversize or overweight special permitted vehicle shall be jointly responsible for meeting all permit requirements; and~~

~~2. A person shall not operate any other trailer configuration or multiple trailer combination under the class E special permit, unless authorized by the Department and specifically indicated on the permit.~~

B. The Department shall issue a class E oversize or overweight special permit for an LCV only at the following state ports of entry:

1. Page,
2. St. George, or
3. Teec Nos Pos.

C. An applicant for a class E oversize or overweight special permit shall submit to the Department, with all appropriate fees, an application form provided by the Department that includes all of the following information:

1. Specific dimensions of the vehicle and load combination;
2. Proof of valid registration that complies with the requirements of A.R.S. § 28-2153;
3. Proof of a valid IFTA license that complies with the requirements of A.R.S. § 28-5742, if applicable; and
4. Other information as needed by the Department to issue an appropriate permit, which includes:
  - a. Company name;
  - b. Company or terminal address;
  - c. Company USDOT #;
  - d. Company mailing address;
  - e. Company contact name, address, telephone number, and fax number or email address;
  - f. Company representative's name and title; and
  - g. Specific routes requested.

~~D.~~ A person who operates, and a person who causes to be operated, an oversize or overweight special permitted vehicle shall be jointly responsible for meeting all permit requirements.

~~D.E.~~ The operator permittee or driver of a class E special permitted LCV vehicle and load combination shall comply with the federal bridge formula axle group weight limitations provided under A.R.S. § 28-1100(A)(4) and not exceed the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411 or any other applicable state highway restriction, condition, or allowance State Highway System restrictions, conditions, or allowances provided by the Department under R17-6-412, Table 4.

**E. A permittee or driver shall not operate any other trailer configuration or multiple trailer combination under the class E special permit, unless authorized by the Department and specifically indicated on the permit.**

**Table 2. Class E LCV Special Permit and Issuance Criteria**

<b>LCV Combination - Double</b>	
Truck tractor and two trailing units (23 CFR 658, App. C); Truck and one full trailer (A.R.S. § 28-1103); or Truck tractor, semitrailer, and one full trailer (A.R.S. § 28-1103).	
<b>LCV Combination - Triple*</b>	
Truck tractor and three trailing units (23 CFR 658, App. C); Truck, semitrailer, and one full trailer (A.R.S. § 28-1103); or Truck and two trailers (A.R.S. § 28-1103).	
<b>LCV Double</b>	
Truck tractor and two trailing units, or truck and one trailing unit, exceeding an overall combination length of 65'.	
<b>LCV Triple*</b>	
Truck tractor and three trailing units or a truck and two trailing units.	
(Reducible vehicle and load combinations authorized under: 23 CFR 658.13; 23 CFR 658, App. C; and A.R.S. § 28-1103)	
<b>Route</b>	<b>Locations Authorized for LCV Travel (A.R.S. § 28-1103 and 23 CFR 658, App. C)</b>
I-15	MP 0.00 (Nevada State Line) to MP 29.40 (Utah State Line)
State 98	MP 294.67 (Junction US 89) to MP 314.67
State 389	MP 0.00 (Utah State Line) to MP 32.60 (Junction US 89A)
US 89	MP 536.99 to MP 556.99 (Utah State Line)
US 89A	MP 579.30 (Junction SR 67) to MP 613.03 (Utah State Line)
US 160	MP 393.57 (Junction US 163 at Kayenta) to MP 470.00 (New Mexico State Line)
US 163	MP 393.52 (Junction US 160 at Kayenta) to MP 416.71 (Utah State Line)
<b>Gross Vehicle Weight of <del>LCV</del> Vehicle and Load Combination</b>	<b>Permit Duration and Fee (A.R.S. § 28-1105)</b>
80,001 lbs through <del>111,000</del> 123,500 lbs	Single or 30-Day - \$75
80,001 lbs through <del>111,000</del> 123,500 lbs	Annual - \$360
<del>121,000 lbs for 9 axles, or 123,500 lbs for 10 axles</del>	<del>Annual - \$360</del>
<del>111,001</del> 123,501 lbs through 129,000 lbs*	Single or 30-Day - \$75
<del>111,001</del> 123,501 lbs through 129,000 lbs*	Annual - \$600
*Triple LCVs shall not exceed 123,500 lbs except on I-15.	
<b>Maximum Length</b>	
The overall length of the <del>single cargo-carrying unit</del> cargo-carrying units of the vehicle a combination of vehicles shall not exceed 95 98 feet.	
<b>Limits and Restrictions</b>	
LCV operation is subject to federal bridge formula B limits and restricted to the right most traffic lane.	

Operation may be limited by the Department and restricted or prohibited during periods when traffic, weather, or other safety considerations make such operation unsafe or inadvisable.

\*A triple LCV shall not exceed 123,500 lbs except on I-15.

**R17-6-207. ~~Repeated Suspension of Length Restrictions and Weight Limitations on State Routes and~~  
~~Highways; Healthy Forest~~**

- A.** The Department, after conducting appropriate engineering and traffic review and analysis, may grant temporary relief from any existing length or weight restriction placed on a highway, or otherwise authorize reasonable access to any state or federal highway or route maintained by and under the jurisdiction of the Department by issuance of a special permit as provided under A.R.S. §§ 28-1103 and 28-1104.
- B.** An applicant for a special permit, issued by the Department as prescribed under subsection (A), shall apply to the Department using the application procedure provided under R17-6-103.
- C.** A special permit issued by the Department under subsection (A) subjects the permittee to all terms and conditions indicated on the special permit, including the period of time for which the special permit is valid, and may be renewed.
- D.** To protect life, property, and environmental concerns the Department may issue a special permit under subsection (A) for the operation of an overweight vehicle or vehicle and load combination transporting timber or natural forest products, if the vehicle or vehicle and load combination is within the class A maximum limits prescribed under R17-6-201, and:
1. Configured using one or two tridem axle groups appropriately spaced to meet any axle group weight limitations required by the Department after completing a bridge analysis on all affected routes;
  2. Traveling on an authorized highway or roadway, the maintenance of which is under the jurisdiction of the Department;
  3. Operating in the furtherance of an ongoing cooperative effort between the U.S. Forest Service, the Arizona Department of Forestry and Fire Management, county officials, or an Arizona city or town to mitigate the effects of wildfires, correct damages, or improve and otherwise manage forest health by moving or removing natural forest products or biomass;
  4. Working to reduce unnecessary fuel loads to safeguard the health, safety, and welfare of visitors to the National Forests and any residents of the surrounding communities by significantly reducing any future possibility of fueling a devastating forest fire; and
  5. Complying with all route-specific restrictions, requirements, conditions, and allowances provided under R17-6-412, Table 4.

**R17-6-208. ~~Class G Overwidth Special Permits - Specified Vehicle or Combination with Reducible Load~~  
~~Over Legal Width Repealed~~**

- A.** The Department shall issue an annual, 30-day, or single trip class G overwidth special permit according to the following criteria for a specified vehicle, or vehicle combination, with a reducible load that exceeds only the width threshold provided under R17-6-102, Table 1, but does not exceed the following maximum limit:

Vehicle or load description	A specified reducible load that exceeds only the legal width threshold provided under R17-6-102, Table 1, but does not exceed 10 feet in width	
Permit option	Single trip: 96-hour maximum	
	Multiple trip: 30-day maximum	
	Multiple trip: one year	
Fee (A.R.S. § 28-1105)	Single trip	\$15
	Multiple trip, 30 day	\$30
	Multiple trip, one year	\$360

~~B. An applicant for a class G overwidth special permit shall apply to the Department and submit appropriate fees using the application procedure provided under R17-6-103.~~

~~C. A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated restrictions and requirements.~~

**R17-6-209. Class H ~~Overwidth~~ A - Watercraft Special Permit - ~~Specified~~ Specific Vehicle and Overwidth Watercraft Load Combination**

A. The Department shall issue an annual class H ~~overwidth~~ A - Watercraft special permit according to the following criteria for multiple trips of a ~~specified~~ specific vehicle and overwidth watercraft load combination that exceeds the width threshold established under A.R.S. § 28-1093 and R17-6-102, Table 1:

Vehicle or load description	<del>Applicable only to a specified watercraft load</del> <u>A specific vehicle combination transporting an overwidth watercraft load that is currently registered with the Arizona Game &amp; Fish Department or the U.S. Coast Guard (as applicable), that is no wider more than 10 feet in width, and is within all other threshold dimensions provided under R17-6-102, Table 1</u>
Permit option	Multiple trip: one year
Fee (A.R.S. § 28-1103)	\$45

B. An applicant for an annual class H ~~overwidth watercraft~~ A - Watercraft special permit shall apply to the Department and submit appropriate fees using the application procedure provided under R17-6-103.

C. In addition to the application procedure provided under R17-6-103, an applicant for an annual class H ~~overwidth watercraft~~ A - Watercraft special permit shall submit to the Department proof of a valid watercraft registration or assigned watercraft registration number issued by the Arizona Game and Fish Department or U.S. Coast Guard.

D. A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated restrictions and requirements.

**~~R17-6-413~~; R17-6-210. Page-Lake Powell Area Houseboat Transport Provisions**

- A. A permit applicant shall use the procedures under this Section to apply for an extended approval class C special permit to transport a houseboat of the dimensions specified under subsection (C) on a highway listed under Table 5.
- B. A permit applicant shall apply for a permit under this Section at the following ~~Department field office~~ Arizona Port of Entry location:
  - Page Port of Entry
  - ~~US 89 MP~~ U.S. Highway 89, Milepost 551
  - P.O. Box 1807
  - Page, AZ 86040
  - Telephone: (928) 645-3269
  - ~~Fax: (928) 645-9360~~
- C. An extended approval class C special permitted vehicle with at least one front and one rear escort vehicle may operate on a highway listed under Table 5 during daylight hours as provided under R17-6-401, including any weekday, weekend, or holiday, if it does not exceed dimensions as follows:
  - 1. 16 feet 6 inches in width;
  - 2. 25 feet in height;
  - 3. 120 feet in length;
  - 4. 150,000 pounds; or
  - 5. Axle weight limits listed in Tables 3.01 through 3.09.
- D. An extended approval class C special permitted vehicle and load that exceeds 17 feet in height shall have a front escort with a height pole.
- E. For an extended approval class C special permitted vehicle and load that exceeds 14 feet in width, a permittee or driver shall ensure an appropriate level of traffic control at the Glen Canyon Bridge on US 89 by closing access to the bridge at each end and at the visitor center driveway.
- F. If a permit applicant seeks to transport outside the requirements of this Section, the permit applicant shall apply for a class C special permit according to the procedures provided under ~~R17-6-204~~ R17-6-211.

**Table 5. Page-Lake Powell Area Highways**

Route	Location (MP = Milepost)
State Route 98	MP 299.50 (Junction BIA 22, Antelope Canyon); to MP 294.67 (End of route at Junction US 89)
U.S. Highway 89	MP 546.19 (Junction SR 98); to MP 556.99 (Utah State Line)

**R17-6-211. ~~Western Regional Permit~~ Repealed**

- ~~A. The Department shall issue a western regional permit for transport of a specified vehicle, combination of vehicles, or vehicle and load combination meeting specific non-reducible size and weight criteria established under the Western Regional Agreement for transport in Arizona and any other jurisdiction that is a party to the~~

~~“Western Regional Agreement for the Issuance of Permits for Overweight and/or Oversize Vehicles and/or Loads Involved in Interstate Travel.” The western regional permit eliminates the need to obtain a separate permit for each jurisdiction.~~

- ~~B. An applicant is eligible for the western regional permit provided under subsection (A), if the applicant’s vehicle, combination of vehicles, or vehicle and load combination meets all of the following criteria:~~
- ~~1. Non-reducible;~~
  - ~~2. Specifically described;~~
  - ~~3. Width is 14 feet or less;~~
  - ~~4. Height is 14 feet or less;~~
  - ~~5. Length is 110 feet or less;~~
  - ~~6. Overall gross weight is 160,000 pounds or less;~~
  - ~~7. 600 pounds per inch of tire width;~~
  - ~~8. A minimum of five axles; and~~
  - ~~9. The weights of any group of axles are determined using the lesser of the vehicle weights provided by the tables in the Western Regional Manual or the following:~~
    - ~~a. 21,500 pounds per single axle;~~
    - ~~b. 43,000 pounds per tandem axle group; or~~
    - ~~c. 53,000 pounds per tridem axle group (wheel base is more than eight feet but not more than 13 feet).~~
- ~~C. An applicant with a vehicle, combination of vehicles, or vehicle and load combination meeting all eligibility criteria provided under subsection (B), may apply for a western regional permit by completing, and submitting to the Department, a western regional permit application along with:~~
- ~~1. Proof of valid registration in compliance with A.R.S. § 28-2153;~~
  - ~~2. Proof of a valid IFTA license in compliance with A.R.S. § 28-5742, if applicable; and~~
  - ~~3. All applicable fees calculated as provided under the fee schedules located in the Western Regional Manual maintained at the Arizona Central Commercial Permits Office or Ports of Entry.~~
- ~~D. The Department shall issue, no more than five days before its effective date, a western regional permit valid for a period of five working days.~~
- ~~E. The Department, at the request of a permit holder, may extend the western regional permit’s period of validity for up to five days, if completion of the trip is precluded by weather, road conditions, or mechanical failure. An extension authorized by the Department under this Section shall be approved:~~
- ~~1. By signature of an authorized ECD agent;~~
  - ~~2. By telephone in an emergency situation, or~~
  - ~~3. By authorization of the Arizona Central Commercial Permits office.~~

~~R17-6-204:~~R17-6-211. **Class C Oversize and Overweight Special Permits - Specified Specific Non-reducible Vehicle, Load, or Combination Over Class A Limits**

- A. The Department shall issue a single trip class C oversize, overweight, or oversize and overweight special permit according to the following criteria for a specified specific non-reducible vehicle, combination of vehicles, or

vehicle and load combination that exceeds ~~a dimension~~ 250,000 pounds, a maximum permitted weight computation for overweight axle group weight distribution as provided under R17-6-411, an oversize or overweight special permit limitation provided under R17-6-201 or as required under R17-6-307(B) and (C) this Article, or a highway-specific restriction, requirement, condition, or allowance provided under R17-6-412, Table 4, according to the following criteria:

Vehicle or load description	A non-reducible <u>vehicle or</u> load that exceeds <u>the</u> dimensions and weights of all other permit classes or when class C operation is proposed on a route further restricted under R17-6-412, Table 4	
Permit option - requires pre-approval by <u>the</u> Class C <del>Maintenance Permit Services Unit</del>	Single trip only	Load shall be specifically described by the applicant as provided under subsection (C) <u>of this Section</u> and A.R.S. § 28-1104
Standard permit fees (A.R.S. § 28-1105)	Oversize only	\$15*
	Overweight only	\$75*
	Oversize and overweight	\$75*
*In addition to the standard permit fees above, the Department shall collect the following class C review and analysis fee(s) as applicable to the applicant's proposed vehicle and load configuration:		
Class C review and analysis fee (A.R.S. § 28-1103)	Height or width 18 feet or less	\$15
	Height or width over 18 feet	\$25
Engineering analysis (A.R.S. § 28-1103)	Prepared by non-ADOT engineer, and reviewed by ADOT engineer	\$75 per 50 mile increment of proposed route
	Prepared by ADOT engineer	\$125 per 50 mile increment of proposed route

**B.** An applicant for a class C oversize or overweight special permit shall:

1. ~~Complete a class C special permit application form provided by the Department and available online at [www.azdot.gov](http://www.azdot.gov)~~ Request a class C special permit using the appropriate application procedure provided under R17-6-103 and this Section;
2. Submit to the Class C Unit a completed class C special permit application, ~~including~~ which shall include all additional information required under ~~subsection (C) and~~ R17-6-104 and R17-6-108, as applicable, with all appropriate fees, ~~to Class C Maintenance Permit Services as provided under R17-6-103, R17-6-104, and R17-6-108, as applicable;~~
3. Contact all applicable utility and cable companies to verify adequate overhead cable and utility line clearances along the proposed route as required under R17-6-308;
4. Obtain an encroachment permit in advance of the proposed transport as provided under 17 A.A.C. 3, Article 5, if ~~constructing a fixed or temporary improvement within a state highway right-of-way, or for any~~

~~activity requiring the temporary use of, or intrusion upon, a state highway right-of-way, including a median moving, manipulating, or intruding upon any fixed or temporary highway feature located within the right-of-way on any route of the State Highway System, such as a guard rail, signage, or signal; and~~

5. Provide ~~or~~ and arrange for the use of additional traffic control devices appropriate for the proposed transport if the Department requires additional traffic control measures as a condition of permit approval. All additional traffic control devices shall conform to the manual and specifications adopted by the Department ~~under~~ pursuant to A.R.S. § 28-641.
- C. A complete class C special permit application for ~~transport of~~ transporting an ~~oversize, overweight, or oversize and overweight vehicle, combination of vehicles, or vehicle and load combination~~ shall:
1. Include all information and fees required under R17-6-103(G) and this Section;
  - ~~1-2.~~ Indicate the starting and ending points origin address and destination address of the proposed route;
  2. ~~Document the specific overall dimensions of the vehicle with its specified load, to include:~~
    - a. ~~Height;~~
    - b. ~~Length, and~~
    - c. ~~Width;~~
  3. Diagram the vehicle and specified load illustrating all of the following information:
    - a. Axle spacing;
    - b. Axle weight;
    - c. Axle width;
    - d. Tires per axle;
    - e. Tire width as designated by the manufacturer;
    - f. Maximum width to the outside of the axles, excluding any load-induced tire bulge; and
    - g. Load weight.
  4. Include a ~~comprehensive traffic control route survey and contingency plan, prepared~~ as provided under R17-6-108, if required by the Department ~~requires traffic control measures~~ as a condition of permit approval;
  5. ~~Indicate the estimated time needed to change out a power unit or other special equipment if the Department, through detailed analysis and as a condition of permit approval, requires the use of an additional power unit or other special equipment to ensure safe transport of the proposed load. The Department's decision to require an additional power unit or other special equipment shall be based on its consideration of the:~~
    - a. ~~Estimated timing involved with clearing a route after a breakdown;~~
    - b. ~~Expected weather conditions;~~
    - c. ~~Proximity and availability of reserve resources;~~
    - d. ~~Size and weight of the load;~~
    - e. ~~Traffic dynamics of the proposed route; and~~
    - f. ~~Width, grade, and condition of the roads;~~

~~6.5.~~ Include proof of gross weight in the form of a public weighmaster's certificate of weight and measure issued at a certified public scale if required by the Department after twice denying an application for incorrect weights; and

~~7. Include proof of valid registration that complies with the requirements of A.R.S. § 28-2153;~~

~~8. Include proof of a valid HFTA license that complies with the requirements of A.R.S. § 28-5742, if applicable; and~~

~~9.6.~~ Include any other applicable requirement as provided under R17-6-104.

~~D.~~ An applicant for a class C oversize or overweight special permit to transport a mobile home shall additionally submit to the Department all appropriate:

~~1. Serial numbers assigned to the mobile home; and~~

~~2. Evidence of payment of all applicable ad valorem taxes, as required under A.R.S. § 28-1104, in the form of a 504 tax clearance permit issued by the county in which the mobile home is currently located.~~

~~E.D.~~ A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated conditions and allowances.

~~F.~~ The Department shall require a class C special permit for an overweight vehicle or vehicle and load combination heavier than 250,000 pounds or that exceeds the maximum permitted weight computations for overweight axle group weight distribution as provided under ~~R17-6-411~~.

#### **R17-6-212. Class C Overweight, or Oversize and Overweight, Special Permit - Tridem Axle Group Configurations**

A. The Department may issue a single trip class C overweight, or oversize and overweight, special permit for ~~tridem axle group configurations~~ a specific non-reducible vehicle, combination of vehicles, or vehicle and load combination that exceeds the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411, if the vehicle, combination of vehicles, or vehicle and load combination is equipped with at least one tridem axle group configured as provided under subsection (C) to achieve a maximum permitted weight of 60,000 pounds per tridem axle group subject to the specific routes and restrictions provided under Table 6 4 and the maximum permitted weight computations provided under Table 7.

B. An applicant for a single trip class C overweight, or oversize and overweight, special permit for tridem axle group configurations shall apply to the Department using the application procedure provided under R17-6-103, and include the \$75 standard permit fee with the \$15 class C review and analysis fee as provided under ~~R17-6-204~~ R17-6-211.

C. The single trip ~~Class~~ class C overweight, or oversize and overweight, special permit for tridem axle group configurations is ~~restricted to~~ available only for a vehicle, combination of vehicles, or vehicle and load combination equipped with at least one tridem axle group configured in conformance with the following criteria:

1. A minimum of four tires per ~~tridem axle group~~, or two 14-inch wide tires per axle in each tridem axle group;

2. A minimum distance of eight feet out-to-out axle width for each tridem axle group;

3. A minimum ~~of eight feet~~ distance of nine feet, and a maximum distance of 14 feet, between the center of the first axle and the center of the third axle of each tridem axle group, except as provided under subsection (D);
4. ~~A maximum of two tridem axle groups, or a maximum of one tandem axle group with one tridem axle group, spaced at least 25 feet between the center of the last axle of the front group and the center of the first axle of the rear group, with no other axles in-between the two groups~~ A minimum distance of 13 feet 7 inches between the center of the front steering axle and the center of the first axle of any consecutive tridem or tandem axle group; and
5. ~~A maximum distance of 12 feet between the center of the first axle and the center of the third axle of each tridem group~~ A minimum distance of 14 feet 1 inch between any two consecutive tridem or tandem axle groups, measured from the center of the last axle of the front group to the center of the first axle of the next group, with no other axles between.

D. A tridem axle group may be used in combination with other non-tridem axle groups ~~only~~ if the non-tridem axle groups do not exceed the maximum permitted weight computations for overweight axle group weight distribution provided under R17-6-411.

~~E. A permit applicant with a vehicle, combination of vehicles, or vehicle and load combination exceeding 14 feet in width, 16 feet in height, 120 feet in length, 140,000 lbs overall gross vehicle weight, or any other dimension specified above shall continue to follow the Department's existing Class C permit application procedures provided under R17-6-204.~~

**Table 6. ~~Class C Overweight, or Oversize and Overweight, Special Permit Routes and Restrictions for Tridem Axle Group Configurations Repealed~~**

~~The single trip class C overweight, or oversize and overweight, special permit for tridem axle group configurations may be issued by the Department for travel on State Route 68, U.S. Route 93 from milepost 67 (junction with State Route 68) to milepost 70 (junction with I-40), and Interstates 10, 19, and 40 subject to the following conditions:~~

Route #	Milepost #	STR #	Structure Name	Restrictions
<del>I-10 EB</del>	<del>250.66</del>	<del>391</del>	<del>Rillito Creek Bridge</del>	<del>Travel in the right most lane</del>
<del>I-10 EB</del>	<del>267.65</del>	<del>1044</del>	<del>Earp Wash Tributary Bridge</del>	<del>Travel in the right most lane</del>
<del>I-10 EB</del>	<del>277.46</del>	<del>463</del>	<del>Wash Bridge</del>	<del>Travel in the right most lane</del>
<del>I-10 EB</del>	<del>312.77</del>	<del>574</del>	<del>Sibyl Road TI OP</del>	<del>Exit and bypass</del>
<del>I-10 EB</del>	<del>355.58</del>	<del>429</del>	<del>Monk Draw Bridge</del>	<del>Exit at 352 and merge at 355</del>
<del>I-10 WB</del>	<del>249.49</del>	<del>390</del>	<del>Canada Del Oro Bridge</del>	<del>Travel in the right most lane</del>
<del>I-10 WB</del>	<del>267.65</del>	<del>1045</del>	<del>Earp Wash Tributary Bridge</del>	<del>Travel in the right most lane</del>
<del>I-10 WB</del>	<del>299.14</del>	<del>73</del>	<del>Cornfield Canyon Bridge</del>	<del>Travel in the right most lane</del>
<del>I-10 WB</del>	<del>312.77</del>	<del>575</del>	<del>Sibyl Road TI OP</del>	<del>Exit and bypass</del>
<del>I-10 WB</del>	<del>389.38</del>	<del>210</del>	<del>Island Wash Bridge</del>	<del>Travel in the right most lane</del>

I-40 EB	224.70	321	Babbitt Tank Wash Bridge	Travel in the right most lane
I-40 WB	13.61	377	Franconia Wash Bridge	Travel in the right most lane
I-40 WB	21.01	1312	Flat Top Wash Bridge	Travel in the right most lane
I-40 WB	21.84	364	Happy Jack Wash Bridge	Travel in the right most lane
I-40 WB	23.56	365	Mackenzie Wash Bridge	Travel in the right most lane
I-40 WB	144.31	440	Ash Fork ATSFRR OP	Travel in the right most lane
I-40 WB	148.91	441	Johnson Canyon Bridge	Travel in the right most lane
I-40 WB	278.03	459	Tanner Wash Bridge	Travel in the right most lane
EB = Eastbound, I = Interstate, OP = Overpass, STR # = Structure #, TI = Traffic Interchange, WB = Westbound,				

**Table 7. Maximum Permitted Weight Computations: Tridem Axle Group Configurations Repealed**

Distance between the center of the first axle and the center of the third axle of a tridem group:												
	0 <sup>2</sup>	1 <sup>2</sup>	2 <sup>2</sup>	3 <sup>2</sup>	4 <sup>2</sup>	5 <sup>2</sup>	6 <sup>2</sup>	7 <sup>2</sup>	8 <sup>2</sup>	9 <sup>2</sup>	10 <sup>2</sup>	11 <sup>2</sup>
8 <sup>2</sup>	57,960	58,061	58,161	58,262	58,363	58,463	58,564	58,664	58,765	58,866	58,966	59,067
9 <sup>2</sup>	59,168	59,268	59,369	59,469	59,570	59,671	59,771	59,872	59,973	60,000	60,000	60,000
10 <sup>2</sup>	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000
11 <sup>2</sup>	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000	60,000
12 <sup>2</sup>	60,000											

Computation Formula:  $Weight = 1.5 \times 700 (L + 40)$

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

Legend:

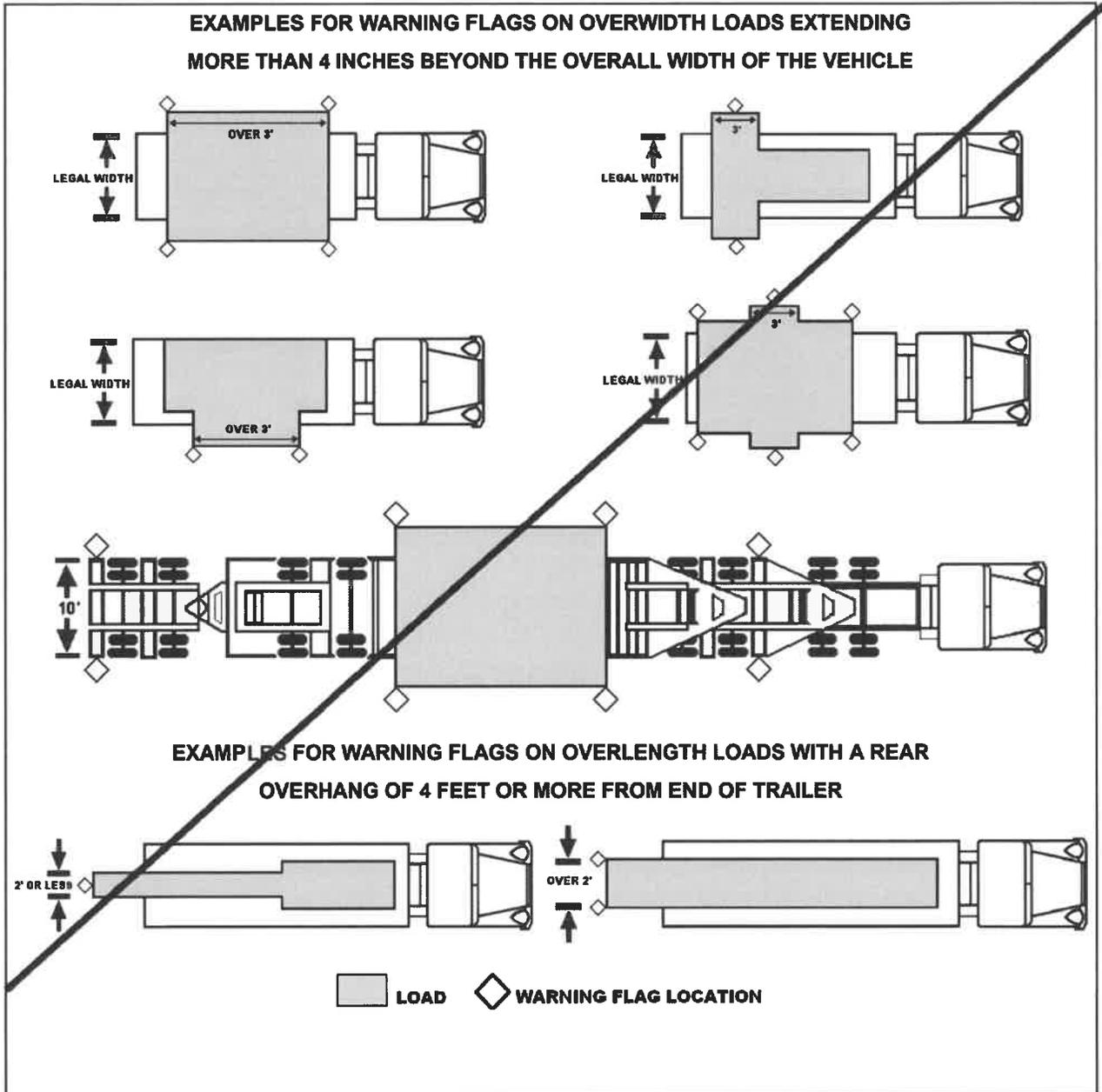
Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 15% up to a maximum 60,000 lbs.

**ARTICLE 3. SAFETY REQUIREMENTS**

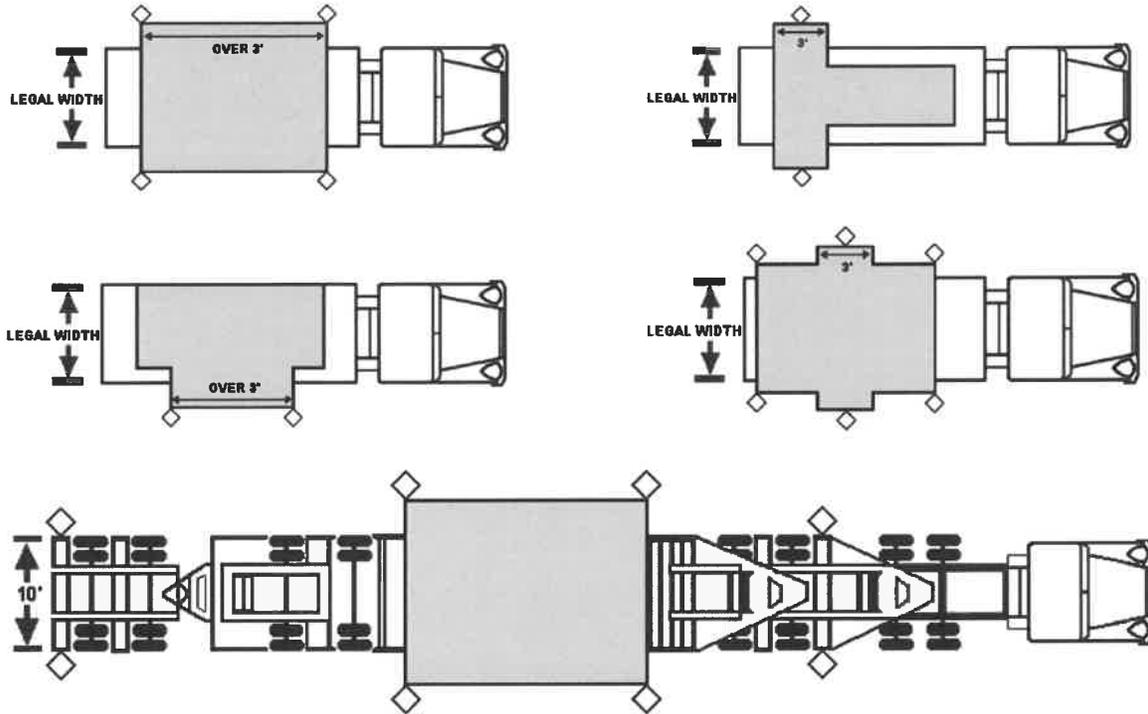
**R17-6-302. Warning Flag Requirements**

- A. Specifications. Each warning flag attached to an overwidth or overlength vehicle or load shall be cloth or plastic at least 18 inches square and red or fluorescent orange in color.
- B. Display. A permittee or driver of an overwidth or overlength envelope or special permitted vehicle ~~and load combination~~ shall display warning flags applicable to the permittee's vehicle or vehicle and load configuration as indicated under Illustration 1.

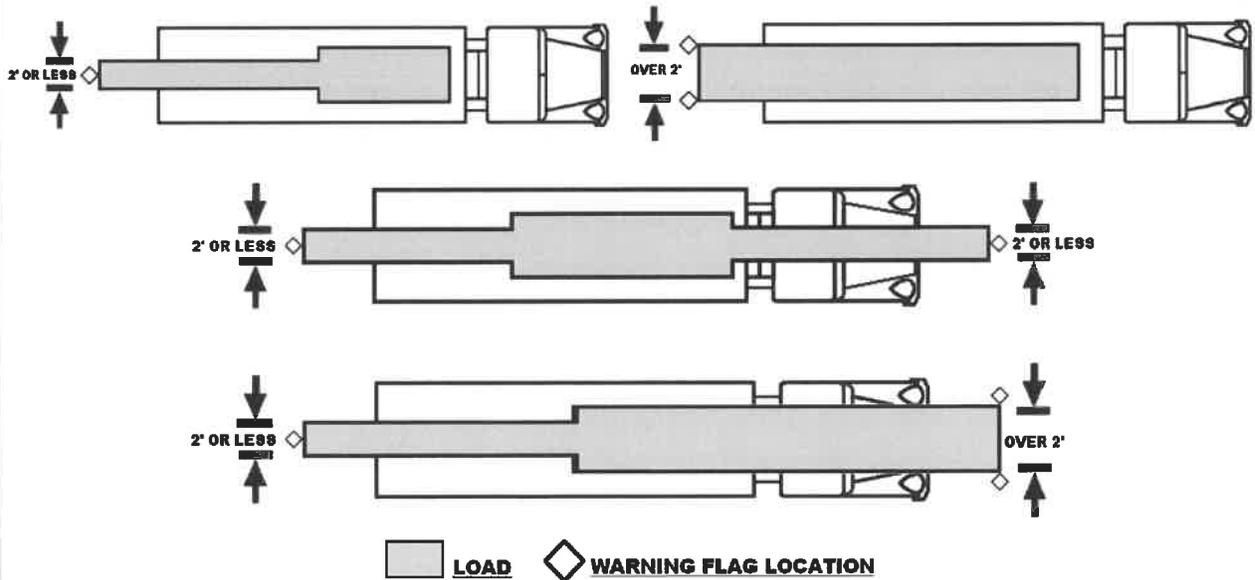
**Illustration 1. Warning Flag Configurations**



**EXAMPLES FOR WARNING FLAGS ON OVERWIDTH LOADS EXTENDING MORE THAN 4 INCHES BEYOND THE OVERALL WIDTH OF THE VEHICLE**



**EXAMPLES FOR WARNING FLAGS ON OVERLENGTH VEHICLES OR LOADS WITH OVERHANG EXTENDING MORE THAN FOUR FEET BEYOND THE FRONT OR REAR OF THE VEHICLE**



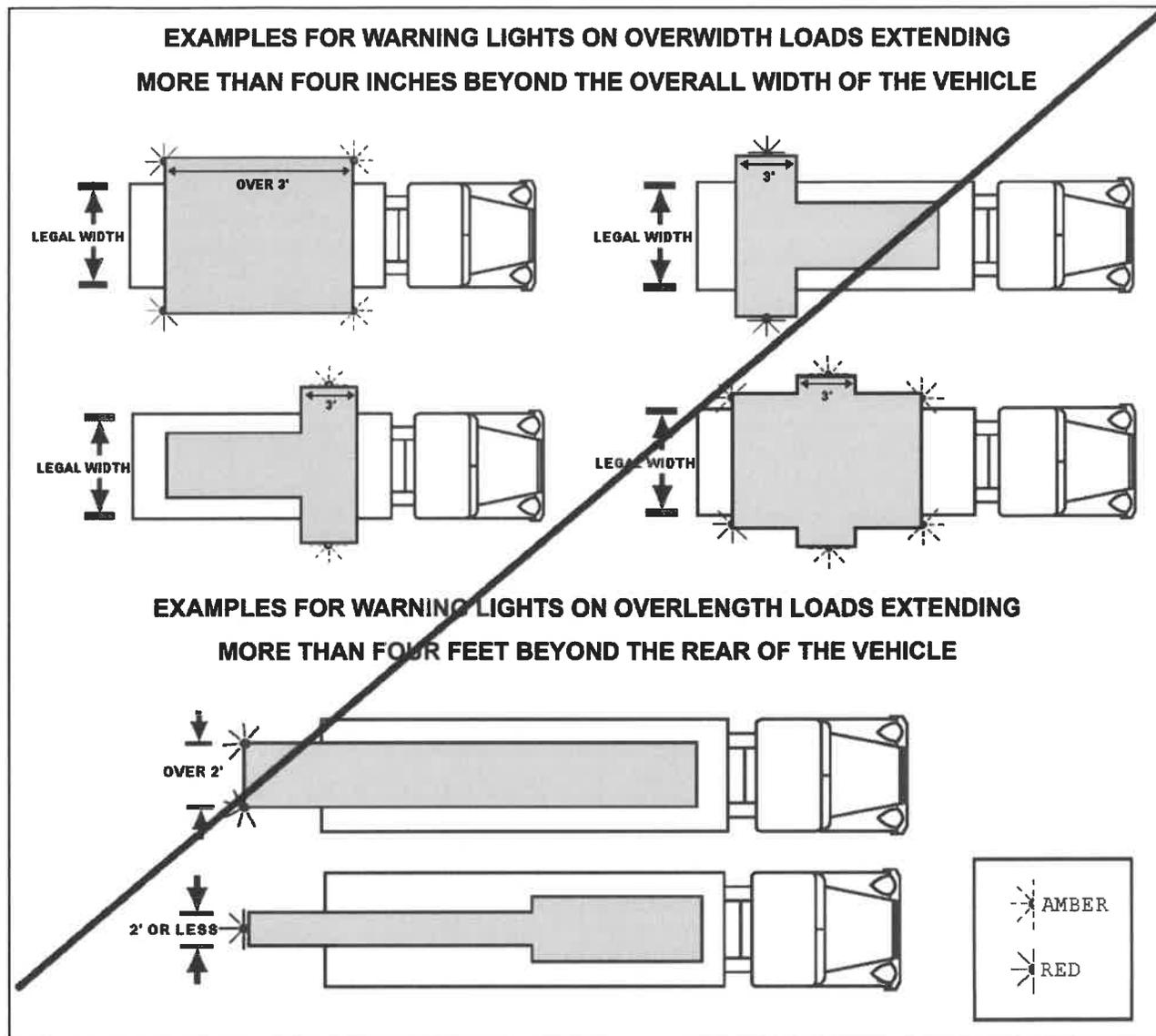
**R17-6-303. Sign Requirements**

- A. A permittee or driver shall ensure that an oversize or overweight vehicle or load displays an “OVERSIZE LOAD” sign if the vehicle or load is nine feet or more in width.
- B. A permittee ~~shall~~ or driver may display an “OVERSIZE LOAD” sign on any oversize or overweight envelope or special permitted vehicle or load not specified under subsection (A) if necessary to ensure maximum visibility for public safety.
- C. An “OVERSIZE LOAD” sign shall meet construction specifications provided under Illustration 2 at a minimum.
- D. A permittee or driver shall display required “OVERSIZE LOAD” signs that are:
  - 1. Mounted to the front or roof of the power unit,
  - 2. Mounted to the rear of the load or loaded vehicle,
  - 3. Parallel with the road surface from side-to-side,
  - 4. Readable from left to right, and
  - 5. Clearly visible from the ~~vehicle’s~~ front and rear of the loaded vehicle.
- E. If a permittee or driver required under this Section to display an “OVERSIZE LOAD” sign is not transporting an oversize or overweight load, the permittee or driver shall ensure that each sign is not visible to traffic.

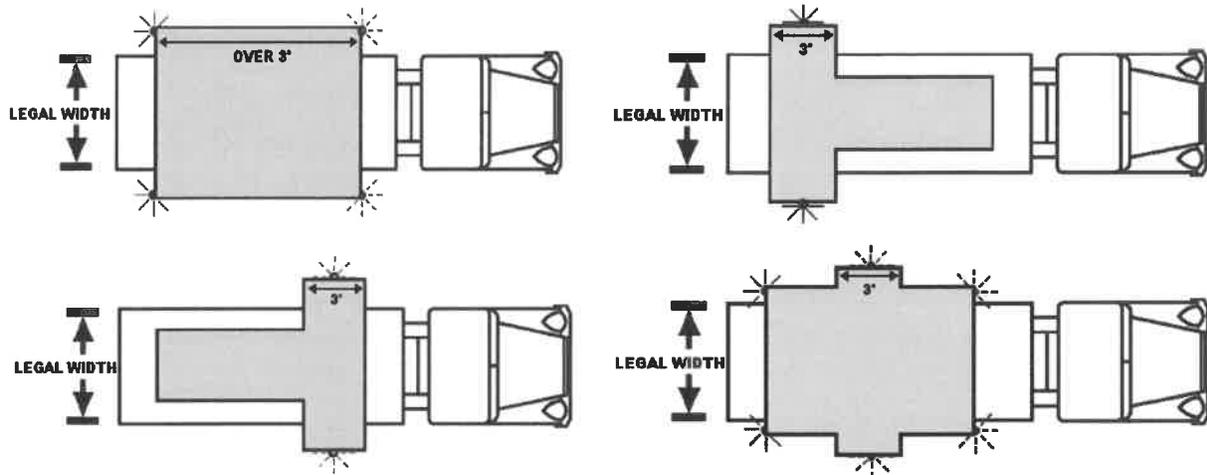
**R17-6-304. Safety Lighting Device Requirements**

- A. A permittee or driver of an oversize or overweight vehicle or load shall:
  - 1. Comply with all applicable lighting equipment requirements under A.R.S. Title 28, Chapter 3, Article 16, and 49 CFR 393 as incorporated by reference under A.A.C. R17-5-202; and
  - 2. Operate with the lighting equipment illuminated ~~as prescribed under A.R.S. §§ 28-922 and 28-935 at the times specified under A.R.S. § 28-922.~~
- B. A permittee or driver of a vehicle transporting a load that projects more than four inches beyond the overall width of the vehicle shall attach safety lighting during nighttime operation according to the requirements provided under Illustration 4, and R17-6-307, that most closely correspond to the permittee’s or driver’s vehicle and load configuration.
- C. A permittee or driver of an oversize vehicle or load that projects ~~more than three feet in front overhang,~~ or more than four feet in front or rear overhang, shall attach safety lighting during nighttime operation according to the requirements provided under Illustration 4, and R17-6-307, that most closely correspond to the permittee’s or driver’s vehicle and load configuration.

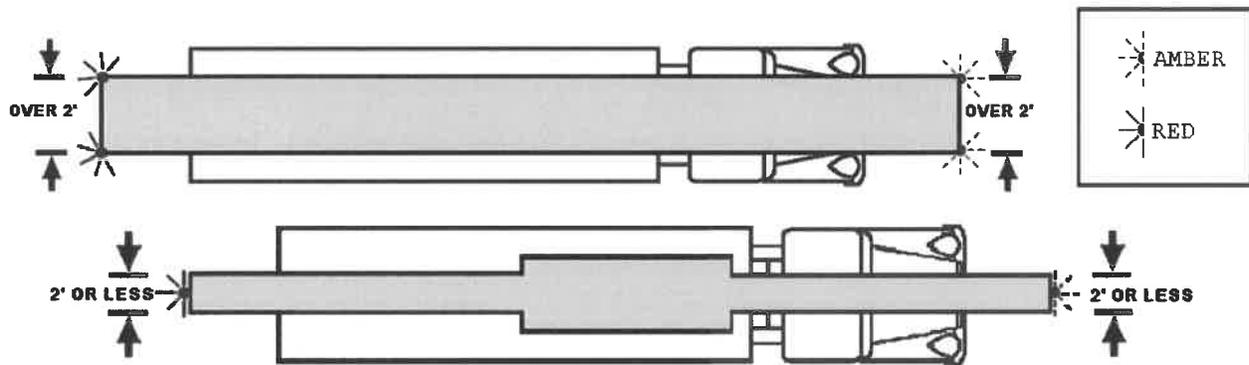
Illustration 4. Safety Lighting Configurations



**EXAMPLES FOR WARNING LIGHTS ON OVERWIDTH LOADS WITH OVERHANG EXTENDING MORE THAN FOUR INCHES BEYOND THE OVERALL WIDTH OF THE VEHICLE**



**EXAMPLES FOR WARNING LIGHTS ON OVERLENGTH VEHICLES OR LOADS WITH OVERHANG EXTENDING MORE THAN FOUR FEET BEYOND THE FRONT OR REAR OF THE VEHICLE**



**R17-6-305. Escort Vehicles**

**A. Service requirement.**

1. A permittee transporting an oversize or overweight vehicle or load shall use all escort vehicles required by the Department as a condition of envelope or special permit issuance under this Chapter.
2. The Department shall determine whether one or more escort vehicles must accompany an oversize or overweight envelope or special permitted vehicle by considering the following in relation to the proposed transport and route:
  - a. Roadway dynamics, including surface condition, grade, width, and height limitations;
  - b. Overall dimensions of the vehicle and load;
  - c. Need for frequent stops;
  - d. Concern for public safety; and
  - e. Time of transport.

3. According to the criteria applicable under subsection (A)(2), the Department shall require two or more oversize or overweight envelope or special permitted vehicles traveling together to be accompanied by at least one escort vehicle per load.

**B. Vehicle, operator, and equipment requirements.**

1. A vehicle qualifies as an escort vehicle if it:
  - a. Is a passenger car or two-axle truck operating as a single unit,
  - b. Is currently registered, and
  - c. Meets insurance requirements as provided by law.
2. An escort vehicle operator, except for a law enforcement escort, while in service under this Chapter shall:
  - a. Meet all requirements under A.R.S. § 28-1110, and maintain certification through a program that meets the escort vehicle operator training and certification standards of the Commercial Vehicle Safety Alliance or an equivalent program, whether in this state or another state, that meets the same objectives;
  - b. Carry in the escort vehicle the same emergency equipment required for a truck, truck tractor, or bus under A.R.S § 28-960 and 49 CFR 393.95, which shall include:
    - i. Fire extinguishers;
    - ii. Warning devices for stopped vehicles; and
    - iii. Emergency staff-mounted warning flags;
  - c. Display an “OVERSIZE LOAD” sign:
    - i. Constructed for escort vehicles as provided under R17-6-303, Illustration 2;
    - ii. Mounted above the vehicle’s roofline and visible to approaching traffic from the front and rear;
    - iii. Accompanied by two flags, one mounted on each side of the oversize load sign; and
    - iv. Concealed when not in use; and
  - d. Ensure continuous communication by two-way radio:
    - i. Capable of transmitting and receiving a minimum of 1/2 mile; and
    - ii. Compatible with the two-way radios used by the driver of the escorted vehicle, law enforcement escorts, and all other accompanying escort vehicles.

**C. Operation.**

1. Lighting requirement. While in service, an escort vehicle operator shall maintain continuous illumination of headlights and overhead warning lights as prescribed under A.R.S. § 28-947.
2. Lead and follow distance. An escort vehicle operator shall maintain a lead or follow distance from an escorted vehicle that generally does not exceed 1,500 feet on an open state highway or 250 feet in an urban setting. When determining the appropriate lead or follow distance, an escort vehicle operator shall:
  - a. Consider traffic density, road conditions, road type, speed, and type of load;
  - b. Ensure constant radio communication with all escorts and the escorted vehicle; and
  - c. Maintain visual contact with the escorted vehicle at all times.
3. Stop provisions at an intersection with a traffic control signal.

- a. When an oversize or overweight envelope or special permitted vehicle is required to stop, the lead-escort vehicle operator shall proceed through the intersection and stop safely off the roadway. The lead-escort vehicle operator shall resume an appropriate lead distance as soon as is safely possible.
- b. When a following-escort vehicle is required to stop, the ~~operator~~ driver of ~~an~~ the oversize or overweight envelope or special permitted vehicle shall proceed without stopping. The following-escort vehicle operator shall resume an appropriate following distance behind the oversize or overweight envelope or special permitted vehicle as soon as is safely possible ~~after clearing an~~ when clear of the intersection.

**R17-6-306. Traffic Control Provisions**

- A. The Department may require additional traffic control by a uniformed certified law enforcement officer to ensure highway safety. The Department shall consider the criteria under R17-6-305(A) when determining the need for additional traffic control.
- B. If the Department requires a law enforcement escort under R17-6-412, Table 4, or as necessary to promote public safety, the permittee or driver of the oversize or overweight envelope or special permitted vehicle shall:
  1. Contact the Arizona Department of Public Safety at least 12 hours before transport to request the appropriate number of uniformed certified law enforcement escorts required for the permitted activity; and
  2. Ensure continuous two-way radio communication during transport with all law enforcement and other escort vehicles required to accompany the permitted vehicle under R17-6-305 and R17-6-307.
- C. If the Arizona Department of Public Safety is unable to provide the appropriate law enforcement escorts requested as provided under subsection (B), the permittee or driver of an oversize or overweight envelope or special permitted vehicle may use any uniformed certified law enforcement escorts if at least one officer is certified for enforcement of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation's Federal Motor Carrier Safety Administration.

**R17-6-307. Projecting ~~Load or Vehicle or Load~~**

- A. The Department shall ~~require~~ issue a class A special permit, as required under Section R17-6-201, for transporting a vehicle or load ~~or vehicle~~ that projects from either side of the vehicle:
  1. Two feet or less, if the projecting portion of the vehicle or load ~~or vehicle~~ has a thickness of less than 12 inches; or
  2. Three feet or less, if the projecting portion of the vehicle or load ~~or vehicle~~ has a thickness of 12 inches or more.
- B. The Department shall ~~require~~ issue a class C special permit, as required under Section R17-6-211, for transporting a vehicle or load that projects from either side of the vehicle:
  1. More than two feet, if the ~~height of the~~ projecting portion of the vehicle or load has a thickness of less than 12 inches; or
  2. More than three feet, if the ~~height of the~~ projecting portion of the vehicle or load has a thickness of 12 inches or more.

- C. ~~A~~ Unless the Department requires additional escort vehicles under R17-6-306 or R17-6-412, Table 4, a permittee or driver of a projecting vehicle or load projecting excess overhang shall have escort vehicle accompaniment as follows:
1. ~~A front escort vehicle if the front load projection is longer than 20 feet, or~~
  2. ~~A rear escort vehicle if rear projection is longer than 20 feet:~~
    1. Over 20 feet in length of front overhang requires a front escort;
    2. Over 20 feet in length of rear overhang requires a rear escort; and
    3. Over 20 feet in length of overhang at both the front and rear of a vehicle requires a front and rear escort.
- D. A permittee or driver of a projecting vehicle or load with more than a ~~four foot~~ four-foot front or rear overhang shall:
1. Attach warning flags to the vehicle or load as provided under R17-6-302 and Illustration 1, for daylight operation; or
  2. Attach safety lighting to the load as provided under R17-6-304 and Illustration 4, for nighttime operation.
- E. An integral component or components removed from a loaded primary object may be transported on the same vehicle bearing the primary object provided the component ~~does~~ or components do not cause the hauling vehicle to exceed a size or weight permitted for the primary object.

## ARTICLE 4. TRANSPORT PROVISIONS

### R17-6-401. General Highway Operations

A. Except as provided under R17-6-205(B), and subject to R17-6-412, Table 4, a permittee or driver of an oversize, overweight, or oversize and overweight envelope or special permitted vehicle is eligible for continuous travel if the envelope or special permitted vehicle does not exceed any of the following dimensions:

1. 10 feet in width;
2. 14 feet 6 inches in height;
3. 10 feet in length of front overhang;
4. 10 feet in length of rear overhang;
5. 120 feet in overall length; or
6. 250,000 pounds.

~~A.B.~~ A permittee or driver of an oversize or overweight envelope or special permitted vehicle ~~or vehicle and load combination~~ exceeding a dimension prescribed under subsection (A) of this Section or R17-6-205(B) shall:

1. Operate no earlier than one-half hour before sunrise and no later than one-half hour after sunset, exact daily times as defined under R17-6-101, except as otherwise provided under this Article, or unless the Department otherwise:
  - a. Restricts operation on a highway, ~~or~~
  - b. Grants permit-specific ~~alternate hours of operation hours~~ other than those listed under this subsection as a necessary condition of permit issuance to maintain highway safety; ~~or~~
  - c. Grants route-specific allowances under R17-6-412, Table 4, for night and weekend transport under R17-6-402.
2. Operate in the rightmost lane of a multi-lane highway if indicated on the envelope or special permit, except to overtake and pass another vehicle; and
3. Maintain a minimum distance of 2,000 feet from any other oversize or overweight envelope or special permitted vehicle traveling on the same highway in the same direction except when passing.

C. A driver of an oversize or overweight vehicle or load shall not exceed the lower maximum speed determined by either of the following:

1. A speed limit printed on an issued permit, ~~or~~
2. A highway-posted vehicle-specific speed limit.

D. The Department may order an alternative speed restriction to prevent:

1. Hazardous traffic conditions, ~~or~~
2. Damages to a highway or highway feature.

~~B.E.~~ Removal of highway signs, guardrails, or other assets from the a highway right-of-way is illegal under A.R.S. § 28-7053, and not authorized under by an oversize or overweight envelope or special permit issued by the Department under this Chapter and is illegal under A.R.S. § 28-7053. A separate encroachment permit issued by the Department under 17 A.A.C. 3, Article 5, is required to enter the before entering any highway right-of-way for these purposes ~~or for any reason purpose~~ other than authorized public travel. The activities authorized while

in the right-of-way shall be specifically outlined in the encroachment permit and completed under Department supervision. A permittee or driver shall follow all additional requirements and instructions as indicated on the encroachment permit if the Department has authorized such activity to be conducted within a highway right-of-way.

~~C.F.~~ Replacement of any state-owned highway feature moved under an encroachment permit, issued pursuant to 17 A.A.C. 3, Article 5, as a result of the transport of an oversize or overweight vehicle along a traveled route, shall be detailed on the encroachment permit and completed under Department supervision.

~~D.G.~~ A permittee ~~and or~~ driver of an oversize or overweight envelope or special permitted vehicle shall, prior to commencing transport on any trip, shall access and review the most current information on roadway highway-specific conditions, closures, ~~and~~ restrictions using one of the following methods, and other requirements applicable to R17-6-412, Table 4, as provided in real-time on the Department's electronic permitting website.

- ~~1. Phone inquiry - dial 511, or~~
- ~~2. Online inquiry - visit [www.az511.gov](http://www.az511.gov).~~

H. A permittee or driver of an oversize or overweight envelope or special permitted vehicle may additionally receive real-time alerts and critical information on highway-specific conditions, closures, restrictions, and other requirements temporarily or permanently affecting travel on a route listed under R17-6-412, Table 4, by accessing the Department's:

1. Twitter feed, [@ArizonaDOT](https://twitter.com/ArizonaDOT);
2. ADOTAlerts mobile app, available free at [ADOTAlerts.com](http://ADOTAlerts.com), which can provide critical information directly to all app users in an affected area where and when a freeway closure or other major traffic event occurs, and where possible, may provide advance warning of an alternate route designation;
3. Arizona Traveler Information System at [AZ511.gov](http://AZ511.gov); or
4. Automated phone service by dialing 511.

#### **R17-6-402: Speed Restriction Repealed**

~~A.~~ A driver of an oversize or overweight vehicle or load shall not exceed the lower maximum speed determined by either of the following:

- ~~1. A speed limit printed on an issued permit, or~~
- ~~2. A highway posted vehicle-specific speed limit.~~

~~B.~~ The Department may order an alternative speed restriction to prevent:

- ~~1. Hazardous traffic conditions, or~~
- ~~2. Damages to a highway or highway feature.~~

#### **R17-6-408.R17-6-402. Continuous Travel Night and Weekend Transport**

A. Except as provided under ~~R17-6-404~~, R17-6-210, R17-6-409, and subject to R17-6-412, Table 4, a permittee or driver of an oversize, or overweight, or oversize and overweight envelope or special permitted vehicle that is eligible ineligible for continuous travel under R17-6-205 or R17-6-401 due to excess width or height, may

transport at night or on a weekend as provided under this Section, if the envelope or special permitted vehicle or vehicle and load combination does not exceed any of the following dimensions is:

1. Over 10 to 16 feet in width;
2. Over 14 feet 6 inches to 16 feet in height;
3. 3 feet in length of front overhang;
4. 10 feet in length of rear overhang;
5. 120 feet or less in overall length; or
6. 250,000 pounds or less in overall weight.

~~B. Unless otherwise restricted under R17-6-404, R17-6-405, R17-6-406, or R17-6-412, Table 4, a permittee or driver of a self-propelled mobile crane, drilling rig, or similar specialty equipment issued a special permit under R17-6-205, is eligible for continuous travel if the vehicle does not exceed any of the following dimensions:~~

1. ~~11 feet in width;~~
2. ~~14 feet in height;~~
3. ~~3 feet in length of front overhang;~~
4. ~~10 feet in length of rear overhang;~~
5. ~~120 feet in overall length; or~~
6. ~~250,000 pounds.~~

B. Subject to all other time of movement restrictions provided under this Article, and unless further restricted under this Chapter, a permittee or driver of an envelope or special permitted vehicle described under subsection (A) may transport at night or on a Saturday or Sunday as follows:

1. On any non-holiday night or weekend;
2. Beginning at 3:00 a.m. until no later than one-half hour after sunset, exact daily times as defined under R17-6-101;
3. Using select routes authorized by the Department under R17-6-412, Table 4, for night and weekend transport, unless the Department:
  - a. Restricts operation on a highway; or
  - b. Grants alternate, permit-specific, hours of operation other than those listed under this subsection as a necessary condition for maintaining highway safety;
4. Operating in the rightmost lane of a multi-lane highway if indicated on the envelope or special permit, except to overtake and pass another vehicle; and
5. Maintaining a minimum distance of 2,000 feet from any other oversize or overweight vehicle, combination of vehicles, or vehicle and load combination traveling on the same highway in the same direction except when passing.

C. A permittee or driver of a vehicle or load transporting under this Section shall additionally ensure appropriate escort vehicle accompaniment and comply with all other applicable restrictions and escort vehicle requirements provided under R17-6-305 and R17-6-412, Table 4 Articles 3 and 4 of this Chapter.

**D.** Unless the Department requires additional escort vehicles under R17-6-306, R17-6-307, or R17-6-412, Table 4, a permittee or driver of an envelope or special permitted vehicle transporting under this Section shall ensure appropriate escort vehicle accompaniment from 3:00 a.m. until one-half hour before sunrise as follows:

1. Over 11 to 14 feet in width requires a rear escort;
2. Over 14 to 16 feet in width requires a front and rear escort; and
3. Over 15 feet in height requires a front escort with a height pole.

**E.** The Department may approve night and weekend transport under a class C special permit for a vehicle, combination of vehicles, or a vehicle and load combination exceeding a dimension provided under this Section, or R17-6-205, upon determining the exception to be in the best interest of public safety.

**~~R17-6-406~~R17-6-403. Holiday Transport Restriction**

**A.** Except as provided under ~~R17-6-414~~ subsection (D) of this Section, R17-6-210, R17-6-409, or while operating under the emergency operation provisions in R17-6-112, this Section applies to a permittee or driver of an oversize, or overweight, or oversize and overweight envelope or special permitted vehicle or load with a dimension of more than is subject to the holiday transport restrictions provided under this Section if the vehicle or load exceeds any of the following dimensions:

1. 10 feet in width, (11 feet in width for specialty equipment under R17-6-205(B));
2. 14 feet 6 inches in height;
3. ≥ 10 feet in length of front overhang;
4. 10 feet in length of rear overhang; or
5. 120 feet in overall length; or
6. 250,000 pounds.

**B.** A permittee or driver shall not transport of an oversize, or overweight, or oversize and overweight envelope or special permitted vehicle or load described under subsection (A) in Arizona shall not transport on the following holidays:

1. New Year's Day,
2. Memorial Day,
3. Independence Day,
4. Labor Day,
5. Thanksgiving Day, or
6. Christmas Day.

**C.** A The transport restriction on transport for a holiday listed under subsection (B) shall also includes include days before and after a the holiday as follows:

1. When a holiday occurs on a Friday, transport shall stop at 12 noon on the preceding Thursday and may resume the following Monday at one-half hour before sunrise, or Monday at 3:00 a.m. if eligible for night transport is allowed under ~~R17-6-409~~ R17-6-402;

2. When a holiday occurs on a Saturday, transport shall stop at 12 noon on the preceding Thursday and may resume the following Monday at one-half hour before sunrise, or Monday at 3:00 a.m. if eligible for night transport ~~is allowed under R17-6-409~~ R17-6-402;
  3. When a holiday occurs on a Sunday, transport shall stop at 12 noon on the preceding Friday and may resume the following Tuesday at one-half hour before sunrise, or Tuesday at 3:00 a.m. if eligible for night transport ~~is allowed under R17-6-409~~ R17-6-402;
  4. When a holiday occurs on a Monday, transport shall stop at 12 noon on the preceding Friday and may resume the following Tuesday at one-half hour before sunrise, or Tuesday at 3:00 a.m. if eligible for night transport ~~is allowed under R17-6-409~~ R17-6-402; and
  5. When a holiday occurs on a Tuesday, Wednesday, or Thursday, transport shall stop at 12 noon on the day before the holiday and may resume the day after the holiday at one-half hour before sunrise, or the day after the holiday at 3:00 a.m. if eligible for night transport ~~is allowed under R17-6-409~~ R17-6-402.
- D. The Department may approve holiday transport under a class C special permit for a vehicle, combination of vehicles, or a vehicle and load combination exceeding a dimension provided under subsection (A), upon determining the exception to be in the best interest of public safety.

**R17-6-404. Metropolitan Curfew Transport Restriction**

- A. ~~Unless~~ Except as provided under subsection (B) of this Section, and unless otherwise provided under this Article, ~~this Section shall apply as provided under subsections (B) and (C) to a~~ an envelope or special permitted vehicle or load that exceeds 10 feet in width, but does is subject to the metropolitan curfew provided under subsections (C) and (D) and shall not exceed any of the following dimensions during curfew hours:
1. 16 feet in height, or less if further restricted under R17-6-412, Table 4;
  2. 3 10 feet in length of front overhang;
  3. 10 feet in length of rear overhang;
  4. 120 feet in overall length; or
  5. 250,000 pounds.
- B. Unless otherwise provided under this Article, a self-propelled mobile crane, drilling rig, or similar specialty equipment exceeding eleven feet in width is subject to the metropolitan curfew provided under subsections (C) and (D) and shall not exceed any of the following dimensions during curfew hours:
1. 14 feet 6 inches in height;
  2. 10 feet in length of front overhang;
  3. 10 feet in length of rear overhang;
  4. 120 feet in overall length; or
  5. 250,000 pounds.
- ~~B.C.~~ A permittee or driver of ~~a~~ an envelope or special permitted vehicle or load described under subsection (A) or (B) may transport on a Monday through Friday during curfew hours subject to the following routes and restrictions is subject to width restrictions on metropolitan routes if transporting during curfew hours, as provided below:

<b>Metropolitan Phoenix - Curfew Routes and Restrictions</b>		
<b>Route</b>	<b>Restriction Location (MP = Milepost)</b>	<b>Width Restrictions <u>Monday through Friday</u> During the Curfew Hours of: 7:00 a.m. to 9:00 a.m.; and 4:00 p.m. to 6:00 p.m.</b>
<u>SR 24</u>	<u>MP 0.00 (Junction SR 202 Loop) to MP 1.00 (Ellsworth Road)</u>	<u>Over 10' - 12' = Requires rear escort</u> <u>Over 12' - 16' = No transport</u>
<u>SR 202 Loop</u>	<u>MP 9.80 (Junction SR 101 Loop) to MP 57.24 (Junction I-10)</u>	<u>Over 10' - 12' = Requires rear escort</u> <u>Over 12' - 16' = No transport</u>
<u>SR 202 Loop</u>	<u>MP 55.50 (Junction I-10, Santan TI) to MP 77.80 (Junction I-10, West Phoenix TI)</u>	<u>Over 10' - 12' = Requires rear escort</u> <u>Over 12' - 16' = No transport</u>
<u>SR 101 Loop</u>	<u>MP 1.21 (Junction I-10, near 99th Avenue) to MP 61.33 (Junction SR 202 Loop)</u>	<u>Over 10' - 12' = Requires rear escort</u> <u>Over 12' - 16' = No transport</u>
<b>Metropolitan Tucson - Curfew Routes and Restrictions</b>		
<u>SR 989</u>	<u>MP 34.01 (N. Rancho Vistoso Blvd/N. 1st Avenue) to MP 36.00 (Junction SR 77 at Oracle Road)</u>	<u>Over 10' - 12' = Requires rear escort</u> <u>Over 12' - 16' = No transport</u>

~~C.D.~~ A permittee or driver of a an envelope or special permitted vehicle or load exceeding any dimension described under subsection (A) or (B) shall not transport on a the following metropolitan routes if transporting Monday through Friday during curfew hours subject to the following routes and restrictions, as provided below:

<b>Metropolitan Phoenix - Curfew Routes and Restrictions</b>		
<b>Route</b>	<b>Restriction Location (MP = Milepost)</b>	<b>Width Restrictions <u>Monday through Friday</u> During the Curfew Hours of: 7:00 a.m. to 9:00 a.m.; and 4:00 p.m. to 6:00 p.m.</b>
I-10	<u>MP 133.98 (Junction SR 101 Loop) to MP 161.35 (Junction SR 202 Loop, Santan)</u>	<u>Over 10' - 16' = No transport</u>
I-17	<u>MP 193.94 (<del>Beginning of route at</del> Junction I-10 <u>and SR 51</u>) to MP 214.96 (Junction SR 101 Loop)</u>	<u>Over 10' - 16' = No transport</u>
SR 51	<u>MP 0.00 (<del>Junctions</del> <u>Junction I-10 and SR Loop 202 Loop</u>) to MP 15.90 (Junction SR <del>Loop</del> 101 Loop)</u>	<u>Over 10' - 16' = No transport</u>
SR 143	<u>MP 0.00 (Junction I-10) to MP 3.81 (McDowell Road)</u>	<u>Over 10' - 16' = No transport</u>
SR 202 Loop	<u>MP 0.00 (<del>Junctions</del> <u>Junction I-10 and SR 51</u>) to MP 9.80 (Junction SR 101 Loop)</u>	<u>Over 10' - 16' = No transport</u>
<u>SR 202 Spur</u>	<u>MP 5.15 (Junction SR 202 Loop) to MP 6.28 (Sky Harbor Blvd)</u>	<u>Over 10' - 16' = No transport</u>
US 60	<u><del>MP 172.00 (Junction I-10)</del> <u>MP 148.90 (Junction SR 101 Loop) to MP 190.51 (Junction SR 202 Loop)</u></u>	<u>Over 10' - 16' = No transport</u>
<b>Metropolitan Tucson - Curfew Routes and Restrictions</b>		
I-10	<u>MP 236.42 (Marana Road TI) to <del>MP 270.67</del> <u>MP 270.57 (Kolb Road TI)</u></u>	<u>Over 10' - 16' = No transport</u>
I-19	<u><del>MP 59.09</del> <u>MP 58.80 (Valencia Road TI, Kilometer Post 95.00 94.62) to <del>MP 63.09</del> <u>MP 63.43 (Junction I-10, Kilometer Post 102.08)</u></u></u>	<u>Over 10' - 16' = No transport</u>

SR 77	MP 68.05 (Junction I-10 at W. <u>Miracle Mile</u> ) to MP <del>79.48</del> <u>81.82</u> (Junction SR 989 at E. Tangerine Road)	Over 10' - 16' = No transport
SR 86	MP 164.04 (Camino Verde Road) to MP 171.44 (Junction I-19)	Over 10' - 16' = No transport
<u>SR 210</u>	<u>MP 1.00 (Broadway Blvd) to MP 4.78 (Richey Blvd)</u>	<u>Over 10' - 16' = No transport</u>
<b>Metropolitan Yuma - Curfew Routes and Restrictions</b>		
<del>US 95</del>	<del>MP 19.84 (32nd Street East) to MP 31.87 (Avenue 9E)</del>	<del>Over 10' - 16' = No transport</del>
<del>SB 8</del>	<del>MP 0.00 (California State Line) to MP 11.50 (End of route near I-8, east of Yuma)</del>	<del>Over 10' - 16' = No transport</del>

**~~R17-6-405.~~ Weekend Transport Allowance Repealed**

- ~~A. Except as provided under R17-6-414, a permittee or driver of an oversize or overweight special permitted vehicle, ineligible for continuous travel under R17-6-408 due to excess width or height, may transport on a weekend as provided under this Section if the vehicle or vehicle and load combination is:~~
- ~~1. Over 10 feet to 16 feet in width, or~~
  - ~~2. Over 14 feet 6 inches to 16 feet in height, and~~
  - ~~3. Otherwise within the limits provided under R17-6-408.~~
- ~~B. A permittee or driver of a vehicle or load described under subsection (A) may transport on a Saturday or Sunday as follows:~~
- ~~1. On any non-holiday weekend;~~
  - ~~2. From 3:00 a.m. until 12 noon;~~
  - ~~3. On select routes authorized by the Department for weekend transport under R17-6-412, Table 4; and~~
  - ~~4. With applicable escort accompaniment as provided under subsection (D).~~
- ~~C. A permittee or driver of a vehicle or load transporting under this Section shall additionally comply with all applicable restrictions and escort vehicle requirements provided under R17-6-412, Table 4.~~
- ~~D. Unless the Department requires additional escort vehicles under R17-6-412, Table 4, a permittee or driver of a vehicle or load transporting under this Section shall have escort vehicle accompaniment as follows:~~
- ~~1. Over 11 to 14 feet in width requires a rear escort;~~
  - ~~2. Over 14 to 16 feet in width requires a front and rear escort, and~~
  - ~~3. Over 15 feet in height requires a front escort with a height pole.~~
- ~~E. The Department may approve weekend transport under a class C special permit for a vehicle and load combination exceeding the dimensions provided under subsection (A) upon determining the exception to be in the best interest of the public.~~

**~~R17-6-403:~~R17-6-405. Weather Restrictions; Hazardous Conditions**

- A. Responsibility. A driver of an oversize or overweight vehicle, or vehicle and load combination, shall:
1. Use the criteria provided under subsection (B) to identify unsafe roadway conditions and discontinue transport until safe to continue, and

2. Comply with all official agency weather-related travel advisories prohibiting oversize or overweight transport.

B. Determining conditions. A driver of an oversize or overweight vehicle, or vehicle and load combination, shall not transport under the following hazardous conditions:

Hazardous Conditions:	Possible Causes May Include:
Driver visibility range becomes less than 500 feet	<ul style="list-style-type: none"> <li>• Blowing dust</li> <li>• Falling snow</li> <li>• Fog</li> <li>• Heavy rain</li> </ul>
Road surface condition reduces normal traction	<ul style="list-style-type: none"> <li>• Snow</li> <li>• Ice</li> <li>• Flooding</li> </ul>
A load destabilizing condition endangers road surface or traffic	<ul style="list-style-type: none"> <li>• High winds</li> <li>• Falling objects</li> </ul>

**R17-6-406. Renumbered**

**R17-6-407. Route-specific and Permit-specific Transport Restrictions**

A permittee or driver of a class C oversize or overweight special permitted vehicle or load shall not transport ~~on a Friday~~ from 12 noon ~~on Friday~~ until 3:00 a.m. ~~on Monday if transporting on~~ a route ~~designated~~ identified by the Department under R17-6-412, Table 4, as being subject to ~~route-specific or permit-specific transport restrictions~~ this Section.

**R17-6-408. Renumbered**

**R17-6-409. Night Transport Restriction Repealed**

~~A. Unless further restricted under this Article, this Section applies to a permittee or driver of an oversize or overweight vehicle, or vehicle and load combination, within the following dimensions:~~

- ~~1. 16 feet or less in width;~~
- ~~2. 16 feet or less in height;~~
- ~~3. 3 feet or less in length of front overhang;~~
- ~~4. 10 feet or less in length of rear overhang;~~
- ~~5. 120 feet or less in overall length; or~~
- ~~6. 250,000 pounds or less in overall weight.~~

~~B. A permittee or driver of a vehicle or load described under subsection (A) may transport at night as follows:~~

- ~~1. Beginning at 3:00 a.m. except on any day, route, or time further restricted under R17-6-404 through R17-6-406;~~
- ~~2. On select routes authorized by the Department for night transport under R17-6-412, Table 4; and~~
- ~~3. With applicable escort accompaniment as provided under subsection (D).~~

- ~~C: A permittee or driver of a vehicle or load transporting under this Section shall additionally comply with all applicable restrictions and escort vehicle requirements provided under R17-6-412, Table 4.~~
- ~~D: Unless the Department requires additional escort vehicles under R17-6-412, Table 4, a permittee or driver of a vehicle or load transporting under this Section shall have escort vehicle accompaniment until sunrise as follows:~~
- ~~1: Over 11 to 14 feet in width requires a rear escort,~~
  - ~~2: Over 14 to 16 feet in width requires a front and rear escort, and~~
  - ~~3: Over 15 feet in height requires a front escort with a height pole.~~
- ~~E: The Department may approve night transport under a class C special permit for a vehicle, combination of vehicles, or a vehicle and load combination exceeding the dimensions provided under subsection (A) upon determining the exception to be in the best interest of public safety.~~

**~~R17-6-414. R17-6-409. Lake-specific Weekend and Holiday Transport Exception~~**

~~A permittee or driver that transports a personal watercraft load of no more than 12 feet in width under a class A special permit may operate from one-half hour before sunrise to one-half hour after sunset on a weekend or holiday on a state highway within 10 miles of an area constructed and maintained for the purpose of launching and retrieving watercraft for the following Arizona lakes:~~

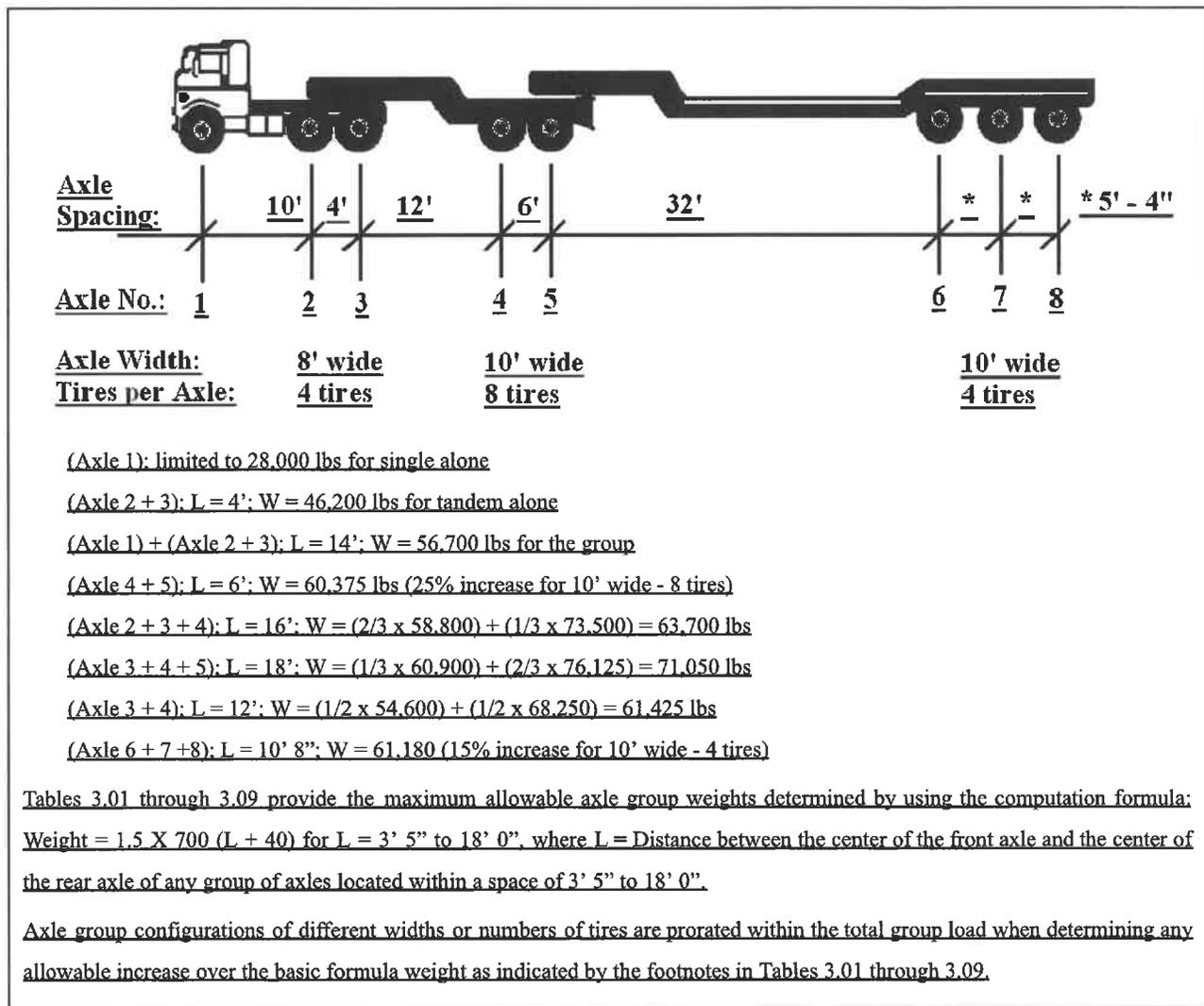
- ~~1. Alamo,~~
- ~~2. Havasu,~~
- ~~3. Mead,~~
- ~~4. Mohave,~~
- ~~5. Powell, and~~
- ~~6. Saguaro.~~

**~~R17-6-411. Maximum Permitted Weights~~**

- ~~A: Except as provided under R17-6-211 and R17-6-212, the Department shall use the formulas and computations provided under Tables 3.01 through 3.09, and Illustration 3, to determine the maximum weights allowed on any combination of axles within the distance between the front and rear axle of a given axle group, up to a maximum of 18 feet, when issuing an oversize or overweight special permit for a non-reducible vehicle or load under this Article.~~
- ~~B: The Department shall use the computations provided under R17-6-212, Table 7, to determine the maximum weights allowed for tridem axle group configurations subject to conditions, restrictions, allowances, and route limitations provided under R17-6-212, Table 6.~~
- A. Except as provided under R17-6-212, an applicant requesting an envelope or special permit under this Chapter for transporting a non-reducible overweight or oversize and overweight vehicle, combination of vehicles, or vehicle and load combination shall use the formulas and computations provided under Illustration 3 and Tables 3.01 through 3.09 to determine the maximum weights allowed on any combination of axles spaced within a maximum distance of 18 feet between the front and rear axle of each axle group.

- B.** The formulas and computations provided under Illustration 3, and Tables 3.01 through 3.09, are an expansion of the federal bridge formula provided under A.R.S. § 28-1100 for use by the Department when issuing an overweight or oversize and overweight envelope or special permit for movement of a non-reducible vehicle or load under this Chapter.
- C.** The axle group weights provided under Illustration 3, and Tables 3.01 through 3.09, represent the maximum weights allowed on any combination of axles spaced within a distance of up to 18 feet between the front and rear axle of any given group. The values in Table 3.01 line "A" are an expression of the formula  $W = 1.5 \times 700 (L + 40)$  for  $L = 3' 5''$  to  $18' 0''$ , where  $L$  is the distance between the centers of the front and rear axles of an axle group. The values in line "B" and in the remaining Tables are calculated by applying the percentages provided in the Table footnotes to increase the allowable weights based on wider axle width and an increased number of tires. Measured axle widths are rounded down to the nearest 3" increment when determining the appropriate Table to use.

**Illustration 3. Overweight Axle Group Weight Calculation**



**Table 3.01: Maximum Permitted Weight Computations: Axle Width - 8 Feet**

**Overweight Axle Group Chart**

Distance between the center of the front axle and the center of the rear axle of a given group.

			Inches											
			0	1	2	3	4	5	6	7	8	9	10	11
Feet	3	A	28,000	28,000	28,000	28,000	28,000	28,000	45,675	45,763	45,850	45,938	46,025	46,113
		B	32,200	32,200	32,200	32,200	32,200	32,200	52,526	52,627	52,728	52,828	52,929	53,029
	4	A	46,200	46,288	46,375	46,463	46,550	46,638	46,725	46,813	46,900	46,988	47,075	47,163
		B	53,130	53,231	53,331	53,432	53,533	53,633	53,734	53,834	53,935	54,036	54,136	54,237
	5	A	47,250	47,338	47,425	47,513	47,600	47,688	47,775	47,863	47,950	48,038	48,125	48,213
		B	54,338	54,438	54,539	54,639	54,740	54,841	54,941	55,042	55,143	55,243	55,344	55,444
	6	A	48,300	48,388	48,475	48,563	48,650	48,738	48,825	48,913	49,000	49,088	49,175	49,263
		B	55,545	55,646	55,746	55,847	55,948	56,048	56,149	56,249	56,350	56,451	56,551	56,652
	7	A	49,350	49,438	49,525	49,613	49,700	49,788	49,875	49,963	50,050	50,138	50,225	50,313
		B	56,753	56,853	56,954	57,054	57,155	57,256	57,356	57,457	57,558	57,658	57,759	57,859
	8	A	50,400	50,488	50,575	50,663	50,750	50,838	50,925	51,013	51,100	51,188	51,275	51,363
		B	57,960	58,061	58,161	58,262	58,363	58,463	58,564	58,664	58,765	58,866	58,966	59,067
	9	A	51,450	51,538	51,625	51,713	51,800	51,888	51,975	52,063	52,150	52,238	52,325	52,413
		B	59,168	59,268	59,369	59,469	59,570	59,671	59,771	59,872	59,973	60,073	60,174	60,274
	10	A	52,500	52,588	52,675	52,763	52,850	52,938	53,025	53,113	53,200	53,288	53,375	53,463
		B	60,375	60,476	60,576	60,677	60,778	60,878	60,979	61,079	61,180	61,281	61,381	61,482
	11	A	53,550	53,638	53,725	53,813	53,900	53,988	54,075	54,163	54,250	54,338	54,425	54,513
		B	61,583	61,683	61,784	61,884	61,985	62,086	62,186	62,287	62,388	62,488	62,589	62,689
	12	A	54,600	54,688	54,775	54,863	54,950	55,038	55,125	55,213	55,300	55,388	55,475	55,563
		B	62,790	62,891	62,991	63,092	63,193	63,293	63,394	63,494	63,595	63,696	63,796	63,897
	13	A	55,650	55,738	55,825	55,913	56,000	56,088	56,175	56,263	56,350	56,438	56,525	56,613
		B	63,998	64,098	64,199	64,299	64,400	64,501	64,601	64,702	64,803	64,903	65,004	65,104
	14	A	56,700	56,788	56,875	56,963	57,050	57,138	57,225	57,313	57,400	57,488	57,575	57,663
		B	65,205	65,306	65,406	65,507	65,608	65,708	65,809	65,909	66,010	66,111	66,211	66,312
	15	A	57,750	57,838	57,925	58,013	58,100	58,188	58,275	58,363	58,450	58,538	58,625	58,713
		B	66,413	66,513	66,614	66,714	66,815	66,916	67,016	67,117	67,218	67,318	67,419	67,519
	16	A	58,800	58,888	58,975	59,063	59,150	59,238	59,325	59,413	59,500	59,588	59,675	59,763
		B	67,620	67,721	67,821	67,922	68,023	68,123	68,224	68,324	68,425	68,526	68,626	68,727
	17	A	59,850	59,938	60,025	60,113	60,200	60,288	60,375	60,463	60,550	60,638	60,725	60,813
		B	68,828	68,928	69,029	69,129	69,230	69,331	69,431	69,532	69,633	69,733	69,834	69,934
	18	A	60,900											
		B	70,035											

Computation Formula: Weight = 1.5 X 700 (L + 40)

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

**Legend:**

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight only.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 15%.

**Table 3.01. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 0 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3' ↓	28,000	28,000	28,000	28,000	28,000	45,588	45,675	45,763	45,850	45,938	46,025	46,113
B		32,200	32,200	32,200	32,200	32,200	52,426	52,526	52,627	52,728	52,828	52,929	53,029
A	4'	46,200	46,288	46,375	46,463	46,550	46,638	46,725	46,813	46,900	46,988	47,075	47,163
B		53,130	53,231	53,331	53,432	53,533	53,633	53,734	53,834	53,935	54,036	54,136	54,237
A	5'	47,250	47,338	47,425	47,513	47,600	47,688	47,775	47,863	47,950	48,038	48,125	48,213
B		54,338	54,438	54,539	54,639	54,740	54,841	54,941	55,042	55,143	55,243	55,344	55,444
A	6'	48,300	48,388	48,475	48,563	48,650	48,738	48,825	48,913	49,000	49,088	49,175	49,263
B		55,545	55,646	55,746	55,847	55,948	56,048	56,149	56,249	56,350	56,451	56,551	56,652
A	7'	49,350	49,438	49,525	49,613	49,700	49,788	49,875	49,963	50,050	50,138	50,225	50,313
B		56,753	56,853	56,954	57,054	57,155	57,256	57,356	57,457	57,558	57,658	57,759	57,859
A	8'	50,400	50,488	50,575	50,663	50,750	50,838	50,925	51,013	51,100	51,188	51,275	51,363
B		57,960	58,061	58,161	58,262	58,363	58,463	58,564	58,664	58,765	58,866	58,966	59,067
A	9'	51,450	51,538	51,625	51,713	51,800	51,888	51,975	52,063	52,150	52,238	52,325	52,413
B		59,168	59,268	59,369	59,469	59,570	59,671	59,771	59,872	59,973	60,073	60,174	60,274
A	10'	52,500	52,588	52,675	52,763	52,850	52,938	53,025	53,113	53,200	53,288	53,375	53,463
B		60,375	60,476	60,576	60,677	60,778	60,878	60,979	61,079	61,180	61,281	61,381	61,482
A	11'	53,550	53,638	53,725	53,813	53,900	53,988	54,075	54,163	54,250	54,338	54,425	54,513
B		61,583	61,683	61,784	61,884	61,985	62,086	62,186	62,287	62,388	62,488	62,589	62,689
A	12'	54,600	54,688	54,775	54,863	54,950	55,038	55,125	55,213	55,300	55,388	55,475	55,563
B		62,790	62,891	62,991	63,092	63,193	63,293	63,394	63,494	63,595	63,696	63,796	63,897
A	13'	55,650	55,738	55,825	55,913	56,000	56,088	56,175	56,263	56,350	56,438	56,525	56,613
B		63,998	64,098	64,199	64,299	64,400	64,501	64,601	64,702	64,803	64,903	65,004	65,104
A	14'	56,700	56,788	56,875	56,963	57,050	57,138	57,225	57,313	57,400	57,488	57,575	57,663
B		65,205	65,306	65,406	65,507	65,608	65,708	65,809	65,909	66,010	66,111	66,211	66,312
A	15'	57,750	57,838	57,925	58,013	58,100	58,188	58,275	58,363	58,450	58,538	58,625	58,713
B		66,413	66,513	66,614	66,714	66,815	66,916	67,016	67,117	67,218	67,318	67,419	67,519
A	16'	58,800	58,888	58,975	59,063	59,150	59,238	59,325	59,413	59,500	59,588	59,675	59,763
B		67,620	67,721	67,821	67,922	68,023	68,123	68,224	68,324	68,425	68,526	68,626	68,727
A	17'	59,850	59,938	60,025	60,113	60,200	60,288	60,375	60,463	60,550	60,638	60,725	60,813
B		68,828	68,928	69,029	69,129	69,230	69,331	69,431	69,532	69,633	69,733	69,834	69,934
A	18'	60,900											
B		70,035											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight only.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 15%.

**Table 3.02: Maximum Permitted Weight Computations: Axle Width - 8 Feet 3 Inches**  
**Overweight Axle Group Chart**  
 Distance between the center of the front axle and the center of the rear axle of a given group.

			Inches											
			0	1	2	3	4	5	6	7	8	9	10	11
Feet	3	A	28,525	28,525	28,525	28,525	28,525	28,525	46,531	46,621	46,710	46,799	46,888	46,977
		B	32,550	32,550	32,550	32,550	32,550	32,550	53,097	53,199	53,301	53,402	53,504	53,606
4	A	47,066	47,155	47,245	47,334	47,423	47,512	47,601	47,690	47,779	47,869	47,958	48,047	
	B	53,708	53,809	53,911	54,013	54,114	54,216	54,318	54,420	54,521	54,623	54,725	54,826	
5	A	48,136	48,225	48,314	48,403	48,493	48,582	48,671	48,760	48,849	48,938	49,027	49,116	
	B	54,928	55,030	55,132	55,233	55,335	55,437	55,538	55,640	55,742	55,844	55,945	56,047	
6	A	49,206	49,295	49,384	49,473	49,562	49,651	49,740	49,830	49,919	50,008	50,097	50,186	
	B	56,149	56,250	56,352	56,454	56,556	56,657	56,759	56,861	56,963	57,064	57,166	57,268	
7	A	50,275	50,364	50,454	50,543	50,632	50,721	50,810	50,899	50,988	51,078	51,167	51,256	
	B	57,369	57,471	57,573	57,675	57,776	57,878	57,980	58,081	58,183	58,285	58,387	58,488	
8	A	51,345	51,434	51,523	51,612	51,702	51,791	51,880	51,969	52,058	52,147	52,236	52,326	
	B	58,590	58,692	58,793	58,895	58,997	59,099	59,200	59,302	59,404	59,505	59,607	59,709	
9	A	52,415	52,504	52,593	52,682	52,771	52,860	52,950	53,039	53,128	53,217	53,306	53,395	
	B	59,811	59,912	60,014	60,116	60,218	60,319	60,421	60,523	60,624	60,726	60,828	60,930	
10	A	53,484	53,574	53,663	53,752	53,841	53,930	54,019	54,108	54,198	54,287	54,376	54,465	
	B	61,031	61,133	61,235	61,336	61,438	61,540	61,642	61,743	61,845	61,947	62,048	62,150	
11	A	54,554	54,643	54,732	54,821	54,911	55,000	55,089	55,178	55,267	55,356	55,445	55,535	
	B	62,252	62,354	62,455	62,557	62,659	62,760	62,862	62,964	63,066	63,167	63,269	63,371	
12	A	55,624	55,713	55,802	55,891	55,980	56,069	56,159	56,248	56,337	56,426	56,515	56,604	
	B	63,473	63,574	63,676	63,778	63,879	63,981	64,083	64,185	64,286	64,388	64,490	64,591	
13	A	56,693	56,783	56,872	56,961	57,050	57,139	57,228	57,317	57,407	57,496	57,585	57,674	
	B	64,693	64,795	64,897	64,998	65,100	65,202	65,303	65,405	65,507	65,609	65,710	65,812	
14	A	57,763	57,852	57,941	58,031	58,120	58,209	58,298	58,387	58,476	58,565	58,655	58,744	
	B	65,914	66,015	66,117	66,219	66,321	66,422	66,524	66,626	66,728	66,829	66,931	67,033	
15	A	58,833	58,922	59,011	59,100	59,189	59,279	59,368	59,457	59,546	59,635	59,724	59,813	
	B	67,134	67,236	67,338	67,440	67,541	67,643	67,745	67,846	67,948	68,050	68,152	68,253	
16	A	59,903	59,992	60,081	60,170	60,259	60,348	60,437	60,526	60,616	60,705	60,794	60,883	
	B	68,355	68,457	68,558	68,660	68,762	68,864	68,965	69,067	69,169	69,270	69,372	69,474	
17	A	60,972	61,061	61,150	61,240	61,329	61,418	61,507	61,596	61,685	61,774	61,864	61,953	
	B	69,576	69,677	69,779	69,881	69,983	70,084	70,186	70,288	70,389	70,491	70,593	70,695	
18	A	62,042												
	B	70,796												

Computation Formula: Weight = 1.5 X 700 (L + 40)

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

Legend:

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 1.875%.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 16.25%.

**Table 3.02. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 3 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3' ↓	28.525	28.525	28.525	28.525	28.525	46.442	46.531	46.621	46.710	46.799	46.888	46.977
B		32.550	32.550	32.550	32.550	32.550	52.995	53.097	53.199	53.301	53.402	53.504	53.606
A	4'	47.066	47.155	47.245	47.334	47.423	47.512	47.601	47.690	47.779	47.869	47.958	48.047
B		53.708	53.809	53.911	54.013	54.114	54.216	54.318	54.420	54.521	54.623	54.725	54.826
A	5'	48.136	48.225	48.314	48.403	48.493	48.582	48.671	48.760	48.849	48.938	49.027	49.116
B		54.928	55.030	55.132	55.233	55.335	55.437	55.538	55.640	55.742	55.844	55.945	56.047
A	6'	49.206	49.295	49.384	49.473	49.562	49.651	49.740	49.830	49.919	50.008	50.097	50.186
B		56.149	56.250	56.352	56.454	56.556	56.657	56.759	56.861	56.963	57.064	57.166	57.268
A	7'	50.275	50.364	50.454	50.543	50.632	50.721	50.810	50.899	50.988	51.078	51.167	51.256
B		57.369	57.471	57.573	57.675	57.776	57.878	57.980	58.081	58.183	58.285	58.387	58.488
A	8'	51.345	51.434	51.523	51.612	51.702	51.791	51.880	51.969	52.058	52.147	52.236	52.326
B		58.590	58.692	58.793	58.895	58.997	59.099	59.200	59.302	59.404	59.505	59.607	59.709
A	9'	52.415	52.504	52.593	52.682	52.771	52.860	52.950	53.039	53.128	53.217	53.306	53.395
B		59.811	59.912	60.014	60.116	60.218	60.319	60.421	60.523	60.624	60.726	60.828	60.930
A	10'	53.484	53.574	53.663	53.752	53.841	53.930	54.019	54.108	54.198	54.287	54.376	54.465
B		61.031	61.133	61.235	61.336	61.438	61.540	61.642	61.743	61.845	61.947	62.048	62.150
A	11'	54.554	54.643	54.732	54.821	54.911	55.000	55.089	55.178	55.267	55.356	55.445	55.535
B		62.252	62.354	62.455	62.557	62.659	62.760	62.862	62.964	63.066	63.167	63.269	63.371
A	12'	55.624	55.713	55.802	55.891	55.980	56.069	56.159	56.248	56.337	56.426	56.515	56.604
B		63.473	63.574	63.676	63.778	63.879	63.981	64.083	64.185	64.286	64.388	64.490	64.591
A	13'	56.693	56.783	56.872	56.961	57.050	57.139	57.228	57.317	57.407	57.496	57.585	57.674
B		64.693	64.795	64.897	64.998	65.100	65.202	65.303	65.405	65.507	65.609	65.710	65.812
A	14'	57.763	57.852	57.941	58.031	58.120	58.209	58.298	58.387	58.476	58.565	58.655	58.744
B		65.914	66.015	66.117	66.219	66.321	66.422	66.524	66.626	66.728	66.829	66.931	67.033
A	15'	58.833	58.922	59.011	59.100	59.189	59.279	59.368	59.457	59.546	59.635	59.724	59.813
B		67.134	67.236	67.338	67.440	67.541	67.643	67.745	67.846	67.948	68.050	68.152	68.253
A	16'	59.903	59.992	60.081	60.170	60.259	60.348	60.437	60.526	60.616	60.705	60.794	60.883
B		68.355	68.457	68.558	68.660	68.762	68.864	68.965	69.067	69.169	69.270	69.372	69.474
A	17'	60.972	61.061	61.150	61.240	61.329	61.418	61.507	61.596	61.685	61.774	61.864	61.953
B		69.576	69.677	69.779	69.881	69.983	70.084	70.186	70.288	70.389	70.491	70.593	70.695
A	18'	62.042											
B		70.796											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 1.875%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 16.25%.

**Table 3.03. Maximum Permitted Weight Computations: Axle Width - 8 Feet 6 Inches**  
**Overweight Axle Group Chart**  
 Distance between the center of the front axle and the center of the rear axle of a given group.

			Inches											
			0	1	2	3	4	5	6	7	8	9	10	11
Feet	3	A	29,050	29,050	29,050	29,050	29,050	29,050	47,388	47,479	47,569	47,660	47,751	47,842
		B	32,900	32,900	32,900	32,900	32,900	32,900	53,668	53,771	53,874	53,977	54,079	54,182
4	A	47,933	48,023	48,114	48,205	48,296	48,386	48,477	48,568	48,659	48,750	48,840	48,931	
	B	54,285	54,388	54,491	54,593	54,696	54,799	54,902	55,005	55,108	55,210	55,313	55,416	
5	A	49,022	49,113	49,203	49,294	49,385	49,476	49,567	49,657	49,748	49,839	49,930	50,020	
	B	55,519	55,622	55,724	55,827	55,930	56,033	56,136	56,238	56,341	56,444	56,547	56,650	
6	A	50,111	50,202	50,293	50,384	50,474	50,565	50,656	50,747	50,838	50,928	51,019	51,110	
	B	56,753	56,855	56,958	57,061	57,164	57,267	57,369	57,472	57,575	57,678	57,781	57,883	
7	A	51,201	51,291	51,382	51,473	51,564	51,655	51,745	51,836	51,927	52,018	52,108	52,199	
	B	57,986	58,089	58,192	58,295	58,398	58,500	58,603	58,706	58,809	58,912	59,014	59,117	
8	A	52,290	52,381	52,472	52,562	52,653	52,744	52,835	52,925	53,016	53,107	53,198	53,289	
	B	59,220	59,323	59,426	59,528	59,631	59,734	59,837	59,940	60,043	60,145	60,248	60,351	
9	A	53,379	53,470	53,561	53,652	53,743	53,833	53,924	54,015	54,106	54,196	54,287	54,378	
	B	60,454	60,557	60,659	60,762	60,865	60,968	61,071	61,173	61,276	61,379	61,482	61,585	
10	A	54,469	54,560	54,650	54,741	54,832	54,923	55,013	55,104	55,195	55,286	55,377	55,467	
	B	61,688	61,790	61,893	61,996	62,099	62,202	62,304	62,407	62,510	62,613	62,716	62,818	
11	A	55,558	55,649	55,740	55,830	55,921	56,012	56,103	56,194	56,284	56,375	56,466	56,557	
	B	62,921	63,024	63,127	63,230	63,333	63,435	63,538	63,641	63,744	63,847	63,949	64,052	
12	A	56,648	56,738	56,829	56,920	57,011	57,101	57,192	57,283	57,374	57,465	57,555	57,646	
	B	64,155	64,258	64,361	64,463	64,566	64,669	64,772	64,875	64,978	65,080	65,183	65,286	
13	A	57,737	57,828	57,918	58,009	58,100	58,191	58,282	58,372	58,463	58,554	58,645	58,735	
	B	65,389	65,492	65,594	65,697	65,800	65,903	66,006	66,108	66,211	66,314	66,417	66,520	
14	A	58,826	58,917	59,008	59,099	59,189	59,280	59,371	59,462	59,553	59,643	59,734	59,825	
	B	66,623	66,725	66,828	66,931	67,034	67,137	67,239	67,342	67,445	67,548	67,651	67,753	
15	A	59,916	60,006	60,097	60,188	60,279	60,370	60,460	60,551	60,642	60,733	60,823	60,914	
	B	67,856	67,959	68,062	68,165	68,268	68,370	68,473	68,576	68,679	68,782	68,884	68,987	
16	A	61,005	61,096	61,187	61,277	61,368	61,459	61,550	61,640	61,731	61,822	61,913	62,004	
	B	69,090	69,193	69,296	69,398	69,501	69,604	69,707	69,810	69,913	70,015	70,118	70,221	
17	A	62,094	62,185	62,276	62,367	62,458	62,548	62,639	62,730	62,821	62,911	63,002	63,093	
	B	70,324	70,427	70,529	70,632	70,735	70,838	70,941	71,043	71,146	71,249	71,352	71,455	
18	A	63,184												
	B	71,558												

Computation Formula: Weight = 1.5 X 700 (L + 40)

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

**Legend:**

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 3.75%.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 17.5%.

**Table 3.03. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 6 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0"	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3'	29,050	29,050	29,050	29,050	29,050	47,297	47,388	47,479	47,569	47,660	47,751	47,842
B		32,900	32,900	32,900	32,900	32,900	53,565	53,668	53,771	53,874	53,977	54,079	54,182
A	4'	47,933	48,023	48,114	48,205	48,296	48,386	48,477	48,568	48,659	48,750	48,840	48,931
B		54,285	54,388	54,491	54,593	54,696	54,799	54,902	55,005	55,108	55,210	55,313	55,416
A	5'	49,022	49,113	49,203	49,294	49,385	49,476	49,567	49,657	49,748	49,839	49,930	50,020
B		55,519	55,622	55,724	55,827	55,930	56,033	56,136	56,238	56,341	56,444	56,547	56,650
A	6'	50,111	50,202	50,293	50,384	50,474	50,565	50,656	50,747	50,838	50,928	51,019	51,110
B		56,753	56,855	56,958	57,061	57,164	57,267	57,369	57,472	57,575	57,678	57,781	57,883
A	7'	51,201	51,291	51,382	51,473	51,564	51,655	51,745	51,836	51,927	52,018	52,108	52,199
B		57,986	58,089	58,192	58,295	58,398	58,500	58,603	58,706	58,809	58,912	59,014	59,117
A	8'	52,290	52,381	52,472	52,562	52,653	52,744	52,835	52,925	53,016	53,107	53,198	53,289
B		59,220	59,323	59,426	59,528	59,631	59,734	59,837	59,940	60,043	60,145	60,248	60,351
A	9'	53,379	53,470	53,561	53,652	53,743	53,833	53,924	54,015	54,106	54,196	54,287	54,378
B		60,454	60,557	60,659	60,762	60,865	60,968	61,071	61,173	61,276	61,379	61,482	61,585
A	10'	54,469	54,560	54,650	54,741	54,832	54,923	55,013	55,104	55,195	55,286	55,377	55,467
B		61,688	61,790	61,893	61,996	62,099	62,202	62,304	62,407	62,510	62,613	62,716	62,818
A	11'	55,558	55,649	55,740	55,830	55,921	56,012	56,103	56,194	56,284	56,375	56,466	56,557
B		62,921	63,024	63,127	63,230	63,333	63,435	63,538	63,641	63,744	63,847	63,949	64,052
A	12'	56,648	56,738	56,829	56,920	57,011	57,101	57,192	57,283	57,374	57,465	57,555	57,646
B		64,155	64,258	64,361	64,463	64,566	64,669	64,772	64,875	64,978	65,080	65,183	65,286
A	13'	57,737	57,828	57,918	58,009	58,100	58,191	58,282	58,372	58,463	58,554	58,645	58,735
B		65,389	65,492	65,594	65,697	65,800	65,903	66,006	66,108	66,211	66,314	66,417	66,520
A	14'	58,826	58,917	59,008	59,099	59,189	59,280	59,371	59,462	59,553	59,643	59,734	59,825
B		66,623	66,725	66,828	66,931	67,034	67,137	67,239	67,342	67,445	67,548	67,651	67,753
A	15'	59,916	60,006	60,097	60,188	60,279	60,370	60,460	60,551	60,642	60,733	60,823	60,914
B		67,856	67,959	68,062	68,165	68,268	68,370	68,473	68,576	68,679	68,782	68,884	68,987
A	16'	61,005	61,096	61,187	61,277	61,368	61,459	61,550	61,640	61,731	61,822	61,913	62,004
B		69,090	69,193	69,296	69,398	69,501	69,604	69,707	69,810	69,913	70,015	70,118	70,221
A	17'	62,094	62,185	62,276	62,367	62,458	62,548	62,639	62,730	62,821	62,911	63,002	63,093
B		70,324	70,427	70,529	70,632	70,735	70,838	70,941	71,043	71,146	71,249	71,352	71,455
A	18'	63,184											
B		71,558											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 3.75%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 17.5%.

**Table 3.04: Maximum Permitted Weight Computations: Axle Width - 8 Feet 9 Inches**  
**Overweight Axle Group Chart**  
 Distance between the center of the front axle and the center of the rear axle of a given group.

			Inches											
			0	1	2	3	4	5	6	7	8	9	10	11
Feet	3	A	29,575	29,575	29,575	29,575	29,575	29,575	48,244	48,337	48,429	48,521	48,614	48,706
		B	33,250	33,250	33,250	33,250	33,250	33,250	54,239	54,343	54,447	54,551	54,655	54,759
4	A	48,799	48,891	48,984	49,076	49,168	49,261	49,353	49,446	49,538	49,631	49,723	49,815	
	B	54,863	54,966	55,070	55,174	55,278	55,382	55,486	55,590	55,694	55,798	55,902	56,005	
5	A	49,908	50,000	50,093	50,185	50,278	50,370	50,462	50,555	50,647	50,740	50,832	50,924	
	B	56,109	56,213	56,317	56,421	56,525	56,629	56,733	56,837	56,941	57,045	57,148	57,252	
6	A	51,017	51,109	51,202	51,294	51,387	51,479	51,571	51,664	51,756	51,849	51,941	52,034	
	B	57,356	57,460	57,564	57,668	57,772	57,876	57,980	58,084	58,188	58,291	58,395	58,499	
7	A	52,126	52,218	52,311	52,403	52,496	52,588	52,680	52,773	52,865	52,958	53,050	53,143	
	B	58,603	58,707	58,811	58,915	59,019	59,123	59,227	59,330	59,434	59,538	59,642	59,746	
8	A	53,235	53,327	53,420	53,512	53,605	53,697	53,790	53,882	53,974	54,067	54,159	54,252	
	B	59,850	59,954	60,058	60,162	60,266	60,370	60,473	60,577	60,681	60,785	60,889	60,993	
9	A	54,344	54,436	54,529	54,621	54,714	54,806	54,899	54,991	55,083	55,176	55,268	55,361	
	B	61,097	61,201	61,305	61,409	61,513	61,616	61,720	61,824	61,928	62,032	62,136	62,240	
10	A	55,453	55,546	55,638	55,730	55,823	55,915	56,008	56,100	56,193	56,285	56,377	56,470	
	B	62,344	62,448	62,552	62,655	62,759	62,863	62,967	63,071	63,175	63,279	63,383	63,487	
11	A	56,562	56,655	56,747	56,839	56,932	57,024	57,117	57,209	57,302	57,394	57,486	57,579	
	B	63,591	63,695	63,798	63,902	64,006	64,110	64,214	64,318	64,422	64,526	64,630	64,734	
12	A	57,671	57,764	57,856	57,949	58,041	58,133	58,226	58,318	58,411	58,503	58,595	58,688	
	B	64,838	64,941	65,045	65,149	65,253	65,357	65,461	65,565	65,669	65,773	65,877	65,980	
13	A	58,780	58,873	58,965	59,058	59,150	59,242	59,335	59,427	59,520	59,612	59,705	59,797	
	B	66,084	66,188	66,292	66,396	66,500	66,604	66,708	66,812	66,916	67,020	67,123	67,227	
14	A	59,889	59,982	60,074	60,167	60,259	60,351	60,444	60,536	60,629	60,721	60,814	60,906	
	B	67,331	67,435	67,539	67,643	67,747	67,851	67,955	68,059	68,163	68,266	68,370	68,474	
15	A	60,998	61,091	61,183	61,276	61,368	61,461	61,553	61,645	61,738	61,830	61,923	62,015	
	B	68,578	68,682	68,786	68,890	68,994	69,098	69,202	69,305	69,409	69,513	69,617	69,721	
16	A	62,108	62,200	62,292	62,385	62,477	62,570	62,662	62,754	62,847	62,939	63,032	63,124	
	B	69,825	69,929	70,033	70,137	70,241	70,345	70,448	70,552	70,656	70,760	70,864	70,968	
17	A	63,217	63,309	63,401	63,494	63,586	63,679	63,771	63,864	63,956	64,048	64,141	64,233	
	B	71,072	71,176	71,280	71,384	71,488	71,591	71,695	71,799	71,903	72,007	72,111	72,215	
18	A	64,326												
	B	72,319												

Computation Formula: Weight = 1.5 X 700 (L + 40)

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

Legend:

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 5.625%.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 18.75%.

**Table 3.04. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 8 Feet 9 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3'	29,575	29,575	29,575	29,575	29,575	48,152	48,244	48,337	48,429	48,521	48,614	48,706
B		33,250	33,250	33,250	33,250	33,250	54,135	54,239	54,343	54,447	54,551	54,655	54,759
A	4'	48,799	48,891	48,984	49,076	49,168	49,261	49,353	49,446	49,538	49,631	49,723	49,815
B		54,863	54,966	55,070	55,174	55,278	55,382	55,486	55,590	55,694	55,798	55,902	56,005
A	5'	49,908	50,000	50,093	50,185	50,278	50,370	50,462	50,555	50,647	50,740	50,832	50,924
B		56,109	56,213	56,317	56,421	56,525	56,629	56,733	56,837	56,941	57,045	57,148	57,252
A	6'	51,017	51,109	51,202	51,294	51,387	51,479	51,571	51,664	51,756	51,849	51,941	52,034
B		57,356	57,460	57,564	57,668	57,772	57,876	57,980	58,084	58,188	58,291	58,395	58,499
A	7'	52,126	52,218	52,311	52,403	52,496	52,588	52,680	52,773	52,865	52,958	53,050	53,143
B		58,603	58,707	58,811	58,915	59,019	59,123	59,227	59,330	59,434	59,538	59,642	59,746
A	8'	53,235	53,327	53,420	53,512	53,605	53,697	53,790	53,882	53,974	54,067	54,159	54,252
B		59,850	59,954	60,058	60,162	60,266	60,370	60,473	60,577	60,681	60,785	60,889	60,993
A	9'	54,344	54,436	54,529	54,621	54,714	54,806	54,899	54,991	55,083	55,176	55,268	55,361
B		61,097	61,201	61,305	61,409	61,513	61,616	61,720	61,824	61,928	62,032	62,136	62,240
A	10'	55,453	55,546	55,638	55,730	55,823	55,915	56,008	56,100	56,193	56,285	56,377	56,470
B		62,344	62,448	62,552	62,655	62,759	62,863	62,967	63,071	63,175	63,279	63,383	63,487
A	11'	56,562	56,655	56,747	56,839	56,932	57,024	57,117	57,209	57,302	57,394	57,486	57,579
B		63,591	63,695	63,798	63,902	64,006	64,110	64,214	64,318	64,422	64,526	64,630	64,734
A	12'	57,671	57,764	57,856	57,949	58,041	58,133	58,226	58,318	58,411	58,503	58,595	58,688
B		64,838	64,941	65,045	65,149	65,253	65,357	65,461	65,565	65,669	65,773	65,877	65,980
A	13'	58,780	58,873	58,965	59,058	59,150	59,242	59,335	59,427	59,520	59,612	59,705	59,797
B		66,084	66,188	66,292	66,396	66,500	66,604	66,708	66,812	66,916	67,020	67,123	67,227
A	14'	59,889	59,982	60,074	60,167	60,259	60,351	60,444	60,536	60,629	60,721	60,814	60,906
B		67,331	67,435	67,539	67,643	67,747	67,851	67,955	68,059	68,163	68,266	68,370	68,474
A	15'	60,998	61,091	61,183	61,276	61,368	61,461	61,553	61,645	61,738	61,830	61,923	62,015
B		68,578	68,682	68,786	68,890	68,994	69,098	69,202	69,305	69,409	69,513	69,617	69,721
A	16'	62,108	62,200	62,292	62,385	62,477	62,570	62,662	62,754	62,847	62,939	63,032	63,124
B		69,825	69,929	70,033	70,137	70,241	70,345	70,448	70,552	70,656	70,760	70,864	70,968
A	17'	63,217	63,309	63,401	63,494	63,586	63,679	63,771	63,864	63,956	64,048	64,141	64,233
B		71,072	71,176	71,280	71,384	71,488	71,591	71,695	71,799	71,903	72,007	72,111	72,215
A	18'	64,326											
B		72,319											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 5.625%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 18.75%.

**Table 3.05: Maximum Permitted Weight Computations: Axle Width - 9 Feet**

**Overweight Axle Group Chart**

Distance between the center of the front axle and the center of the rear axle of a given group.

		Inches												
		0	1	2	3	4	5	6	7	8	9	10	11	
Feet	3	A	30,100	30,100	30,100	30,100	30,100	30,100	49,101	49,195	49,289	49,383	49,477	49,571
		B	33,600	33,600	33,600	33,600	33,600	33,600	54,810	54,915	55,020	55,125	55,230	55,335
	4	A	49,665	49,759	49,853	49,947	50,041	50,135	50,229	50,323	50,418	50,512	50,606	50,700
		B	55,440	55,545	55,650	55,755	55,860	55,965	56,070	56,175	56,280	56,385	56,490	56,595
	5	A	50,794	50,888	50,982	51,076	51,170	51,264	51,358	51,452	51,546	51,640	51,734	51,828
		B	56,700	56,805	56,910	57,015	57,120	57,225	57,330	57,435	57,540	57,645	57,750	57,855
	6	A	51,923	52,017	52,111	52,205	52,299	52,393	52,487	52,581	52,675	52,769	52,863	52,957
		B	57,960	58,065	58,170	58,275	58,380	58,485	58,590	58,695	58,800	58,905	59,010	59,115
	7	A	53,051	53,145	53,239	53,333	53,428	53,522	53,616	53,710	53,804	53,898	53,992	54,086
		B	59,220	59,325	59,430	59,535	59,640	59,745	59,850	59,955	60,060	60,165	60,270	60,375
	8	A	54,180	54,274	54,368	54,462	54,556	54,650	54,744	54,838	54,933	55,027	55,121	55,215
		B	60,480	60,585	60,690	60,795	60,900	61,005	61,110	61,215	61,320	61,425	61,530	61,635
	9	A	55,309	55,403	55,497	55,591	55,685	55,779	55,873	55,967	56,061	56,155	56,249	56,343
		B	61,740	61,845	61,950	62,055	62,160	62,265	62,370	62,475	62,580	62,685	62,790	62,895
	10	A	56,438	56,532	56,626	56,720	56,814	56,908	57,002	57,096	57,190	57,284	57,378	57,472
		B	63,000	63,105	63,210	63,315	63,420	63,525	63,630	63,735	63,840	63,945	64,050	64,155
	11	A	57,566	57,660	57,754	57,848	57,943	58,037	58,131	58,225	58,319	58,413	58,507	58,601
		B	64,260	64,365	64,470	64,575	64,680	64,785	64,890	64,995	65,100	65,205	65,310	65,415
	12	A	58,695	58,789	58,883	58,977	59,071	59,165	59,259	59,353	59,448	59,542	59,636	59,730
		B	65,520	65,625	65,730	65,835	65,940	66,045	66,150	66,255	66,360	66,465	66,570	66,675
	13	A	59,824	59,918	60,012	60,106	60,200	60,294	60,388	60,482	60,576	60,670	60,764	60,858
		B	66,780	66,885	66,990	67,095	67,200	67,305	67,410	67,515	67,620	67,725	67,830	67,935
	14	A	60,953	61,047	61,141	61,235	61,329	61,423	61,517	61,611	61,705	61,799	61,893	61,987
		B	68,040	68,145	68,250	68,355	68,460	68,565	68,670	68,775	68,880	68,985	69,090	69,195
	15	A	62,081	62,175	62,269	62,363	62,458	62,552	62,646	62,740	62,834	62,928	63,022	63,116
		B	69,300	69,405	69,510	69,615	69,720	69,825	69,930	70,035	70,140	70,245	70,350	70,455
	16	A	63,210	63,304	63,398	63,492	63,586	63,680	63,774	63,868	63,963	64,057	64,151	64,245
		B	70,560	70,665	70,770	70,875	70,980	71,085	71,190	71,295	71,400	71,505	71,610	71,715
	17	A	64,339	64,433	64,527	64,621	64,715	64,809	64,903	64,997	65,091	65,185	65,279	65,373
		B	71,820	71,925	72,030	72,135	72,240	72,345	72,450	72,555	72,660	72,765	72,870	72,975
	18	A	65,468											
		B	73,080											

Computation Formula: Weight = 1.5 X 700 (L + 40)

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

**Legend:**

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 7.5%.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 20%.

**Table 3.05. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 0 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3'	30,100	30,100	30,100	30,100	30,100	49,007	49,101	49,195	49,289	49,383	49,477	49,571
B		33,600	33,600	33,600	33,600	33,600	54,705	54,810	54,915	55,020	55,125	55,230	55,335
A	4'	49,665	49,759	49,853	49,947	50,041	50,135	50,229	50,323	50,418	50,512	50,606	50,700
B		55,440	55,545	55,650	55,755	55,860	55,965	56,070	56,175	56,280	56,385	56,490	56,595
A	5'	50,794	50,888	50,982	51,076	51,170	51,264	51,358	51,452	51,546	51,640	51,734	51,828
B		56,700	56,805	56,910	57,015	57,120	57,225	57,330	57,435	57,540	57,645	57,750	57,855
A	6'	51,923	52,017	52,111	52,205	52,299	52,393	52,487	52,581	52,675	52,769	52,863	52,957
B		57,960	58,065	58,170	58,275	58,380	58,485	58,590	58,695	58,800	58,905	59,010	59,115
A	7'	53,051	53,145	53,239	53,333	53,428	53,522	53,616	53,710	53,804	53,898	53,992	54,086
B		59,220	59,325	59,430	59,535	59,640	59,745	59,850	59,955	60,060	60,165	60,270	60,375
A	8'	54,180	54,274	54,368	54,462	54,556	54,650	54,744	54,838	54,933	55,027	55,121	55,215
B		60,480	60,585	60,690	60,795	60,900	61,005	61,110	61,215	61,320	61,425	61,530	61,635
A	9'	55,309	55,403	55,497	55,591	55,685	55,779	55,873	55,967	56,061	56,155	56,249	56,343
B		61,740	61,845	61,950	62,055	62,160	62,265	62,370	62,475	62,580	62,685	62,790	62,895
A	10'	56,438	56,532	56,626	56,720	56,814	56,908	57,002	57,096	57,190	57,284	57,378	57,472
B		63,000	63,105	63,210	63,315	63,420	63,525	63,630	63,735	63,840	63,945	64,050	64,155
A	11'	57,566	57,660	57,754	57,848	57,943	58,037	58,131	58,225	58,319	58,413	58,507	58,601
B		64,260	64,365	64,470	64,575	64,680	64,785	64,890	64,995	65,100	65,205	65,310	65,415
A	12'	58,695	58,789	58,883	58,977	59,071	59,165	59,259	59,353	59,448	59,542	59,636	59,730
B		65,520	65,625	65,730	65,835	65,940	66,045	66,150	66,255	66,360	66,465	66,570	66,675
A	13'	59,824	59,918	60,012	60,106	60,200	60,294	60,388	60,482	60,576	60,670	60,764	60,858
B		66,780	66,885	66,990	67,095	67,200	67,305	67,410	67,515	67,620	67,725	67,830	67,935
A	14'	60,953	61,047	61,141	61,235	61,329	61,423	61,517	61,611	61,705	61,799	61,893	61,987
B		68,040	68,145	68,250	68,355	68,460	68,565	68,670	68,775	68,880	68,985	69,090	69,195
A	15'	62,081	62,175	62,269	62,363	62,458	62,552	62,646	62,740	62,834	62,928	63,022	63,116
B		69,300	69,405	69,510	69,615	69,720	69,825	69,930	70,035	70,140	70,245	70,350	70,455
A	16'	63,210	63,304	63,398	63,492	63,586	63,680	63,774	63,868	63,963	64,057	64,151	64,245
B		70,560	70,665	70,770	70,875	70,980	71,085	71,190	71,295	71,400	71,505	71,610	71,715
A	17'	64,339	64,433	64,527	64,621	64,715	64,809	64,903	64,997	65,091	65,185	65,279	65,373
B		71,820	71,925	72,030	72,135	72,240	72,345	72,450	72,555	72,660	72,765	72,870	72,975
A	18'	65,468											
B		73,080											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 7.5%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 20%.

**Table 3.06: Maximum Permitted Weight Computations: Axle Width - 9 Feet 3 Inches**  
**Overweight Axle Group Chart**  
 Distance between the center of the front axle and the center of the rear axle of a given group:

		Inches												
		0	1	2	3	4	5	6	7	8	9	10	11	
Feet	3	A	30,625	30,625	30,625	30,625	30,625	30,625	49,957	50,053	50,148	50,244	50,340	50,436
		B	33,950	33,950	33,950	33,950	33,950	33,950	55,381	55,487	55,593	55,699	55,805	55,911
	4	A	50,531	50,627	50,723	50,818	50,914	51,010	51,105	51,201	51,297	51,393	51,488	51,584
		B	56,018	56,124	56,230	56,336	56,442	56,548	56,654	56,760	56,866	56,972	57,078	57,185
	5	A	51,680	51,775	51,871	51,967	52,063	52,158	52,254	52,350	52,445	52,541	52,637	52,732
		B	57,291	57,397	57,503	57,609	57,715	57,821	57,927	58,033	58,139	58,245	58,352	58,458
	6	A	52,828	52,924	53,020	53,115	53,211	53,307	53,402	53,498	53,594	53,689	53,785	53,881
		B	58,564	58,670	58,776	58,882	58,988	59,094	59,200	59,306	59,413	59,519	59,625	59,731
	7	A	53,977	54,072	54,168	54,264	54,359	54,455	54,551	54,646	54,742	54,838	54,934	55,029
		B	59,837	59,943	60,049	60,155	60,261	60,367	60,473	60,580	60,686	60,792	60,898	61,004
	8	A	55,125	55,221	55,316	55,412	55,508	55,604	55,699	55,795	55,891	55,986	56,082	56,178
		B	61,110	61,216	61,322	61,428	61,534	61,640	61,747	61,853	61,959	62,065	62,171	62,277
	9	A	56,273	56,369	56,465	56,561	56,656	56,752	56,848	56,943	57,039	57,135	57,230	57,326
		B	62,383	62,489	62,595	62,701	62,808	62,914	63,020	63,126	63,232	63,338	63,444	63,550
	10	A	57,422	57,518	57,613	57,709	57,805	57,900	57,996	58,092	58,188	58,283	58,379	58,475
		B	63,656	63,762	63,868	63,975	64,081	64,187	64,293	64,399	64,505	64,611	64,717	64,823
	11	A	58,570	58,666	58,762	58,857	58,953	59,049	59,145	59,240	59,336	59,432	59,527	59,623
		B	64,929	65,035	65,142	65,248	65,354	65,460	65,566	65,672	65,778	65,884	65,990	66,096
	12	A	59,719	59,814	59,910	60,006	60,102	60,197	60,293	60,389	60,484	60,580	60,676	60,771
		B	66,203	66,309	66,415	66,521	66,627	66,733	66,839	66,945	67,051	67,157	67,263	67,370
	13	A	60,867	60,963	61,059	61,154	61,250	61,346	61,441	61,537	61,633	61,729	61,824	61,920
		B	67,476	67,582	67,688	67,794	67,900	68,006	68,112	68,218	68,324	68,430	68,537	68,643
	14	A	62,016	62,111	62,207	62,303	62,398	62,494	62,590	62,686	62,781	62,877	62,973	63,068
		B	68,749	68,855	68,961	69,067	69,173	69,279	69,385	69,491	69,598	69,704	69,810	69,916
	15	A	63,164	63,260	63,355	63,451	63,547	63,643	63,738	63,834	63,930	64,025	64,121	64,217
		B	70,022	70,128	70,234	70,340	70,446	70,552	70,658	70,765	70,871	70,977	71,083	71,189
	16	A	64,313	64,408	64,504	64,600	64,695	64,791	64,887	64,982	65,078	65,174	65,270	65,365
		B	71,295	71,401	71,507	71,613	71,719	71,825	71,932	72,038	72,144	72,250	72,356	72,462
	17	A	65,461	65,557	65,652	65,748	65,844	65,939	66,035	66,131	66,227	66,322	66,418	66,514
		B	72,568	72,674	72,780	72,886	72,993	73,099	73,205	73,311	73,417	73,523	73,629	73,735
	18	A	66,609											
		B	73,841											

Computation Formula:  $Weight = 1.5 \times 700 (L + 40)$   
 (L = Distance between the center of the front axle and the center of the rear axle of a given group.)

**Legend:**

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 9.375%.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 21.25%.

**Table 3.06. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 3 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3'	30,625	30,625	30,625	30,625	30,625	49,861	49,957	50,053	50,148	50,244	50,340	50,436
B		33,950	33,950	33,950	33,950	33,950	55,275	55,381	55,487	55,593	55,699	55,805	55,911
A	4'	50,531	50,627	50,723	50,818	50,914	51,010	51,105	51,201	51,297	51,393	51,488	51,584
B		56,018	56,124	56,230	56,336	56,442	56,548	56,654	56,760	56,866	56,972	57,078	57,185
A	5'	51,680	51,775	51,871	51,967	52,063	52,158	52,254	52,350	52,445	52,541	52,637	52,732
B		57,291	57,397	57,503	57,609	57,715	57,821	57,927	58,033	58,139	58,245	58,352	58,458
A	6'	52,828	52,924	53,020	53,115	53,211	53,307	53,402	53,498	53,594	53,689	53,785	53,881
B		58,564	58,670	58,776	58,882	58,988	59,094	59,200	59,306	59,413	59,519	59,625	59,731
A	7'	53,977	54,072	54,168	54,264	54,359	54,455	54,551	54,646	54,742	54,838	54,934	55,029
B		59,837	59,943	60,049	60,155	60,261	60,367	60,473	60,580	60,686	60,792	60,898	61,004
A	8'	55,125	55,221	55,316	55,412	55,508	55,604	55,699	55,795	55,891	55,986	56,082	56,178
B		61,110	61,216	61,322	61,428	61,534	61,640	61,747	61,853	61,959	62,065	62,171	62,277
A	9'	56,273	56,369	56,465	56,561	56,656	56,752	56,848	56,943	57,039	57,135	57,230	57,326
B		62,383	62,489	62,595	62,701	62,808	62,914	63,020	63,126	63,232	63,338	63,444	63,550
A	10'	57,422	57,518	57,613	57,709	57,805	57,900	57,996	58,092	58,188	58,283	58,379	58,475
B		63,656	63,762	63,868	63,975	64,081	64,187	64,293	64,399	64,505	64,611	64,717	64,823
A	11'	58,570	58,666	58,762	58,857	58,953	59,049	59,145	59,240	59,336	59,432	59,527	59,623
B		64,929	65,035	65,142	65,248	65,354	65,460	65,566	65,672	65,778	65,884	65,990	66,096
A	12'	59,719	59,814	59,910	60,006	60,102	60,197	60,293	60,389	60,484	60,580	60,676	60,771
B		66,203	66,309	66,415	66,521	66,627	66,733	66,839	66,945	67,051	67,157	67,263	67,370
A	13'	60,867	60,963	61,059	61,154	61,250	61,346	61,441	61,537	61,633	61,729	61,824	61,920
B		67,476	67,582	67,688	67,794	67,900	68,006	68,112	68,218	68,324	68,430	68,537	68,643
A	14'	62,016	62,111	62,207	62,303	62,398	62,494	62,590	62,686	62,781	62,877	62,973	63,068
B		68,749	68,855	68,961	69,067	69,173	69,279	69,385	69,491	69,598	69,704	69,810	69,916
A	15'	63,164	63,260	63,355	63,451	63,547	63,643	63,738	63,834	63,930	64,025	64,121	64,217
B		70,022	70,128	70,234	70,340	70,446	70,552	70,658	70,765	70,871	70,977	71,083	71,189
A	16'	64,313	64,408	64,504	64,600	64,695	64,791	64,887	64,982	65,078	65,174	65,270	65,365
B		71,295	71,401	71,507	71,613	71,719	71,825	71,932	72,038	72,144	72,250	72,356	72,462
A	17'	65,461	65,557	65,652	65,748	65,844	65,939	66,035	66,131	66,227	66,322	66,418	66,514
B		72,568	72,674	72,780	72,886	72,993	73,099	73,205	73,311	73,417	73,523	73,629	73,735
A	18'	66,609											
B		73,841											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 9.375%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 21.25%.

**Table 3-07: Maximum Permitted Weight Computations: Axle Width - 9 Feet 6 Inches**  
**Overweight Axle Group Chart**  
 Distance between the center of the front axle and the center of the rear axle of a given group.

			Inches											
			0	1	2	3	4	5	6	7	8	9	10	11
Feet	3	A	31,150	31,150	31,150	31,150	31,150	31,150	50,813	50,911	51,008	51,105	51,203	51,300
		B	34,300	34,000	34,300	34,300	34,300	34,300	55,952	56,059	56,166	56,273	56,381	56,488
4	A	51,398	51,495	51,592	51,690	51,787	51,884	51,982	52,079	52,176	52,274	52,371	52,468	
	B	56,595	56,702	56,809	56,917	57,024	57,131	57,238	57,345	57,453	57,560	57,667	57,774	
5	A	52,566	52,663	52,760	52,858	52,955	53,052	53,150	53,247	53,344	53,442	53,539	53,636	
	B	57,881	57,988	58,096	58,203	58,310	58,417	58,524	58,632	58,739	58,846	58,953	59,060	
6	A	53,734	53,831	53,928	54,026	54,123	54,220	54,318	54,415	54,513	54,610	54,707	54,805	
	B	59,168	59,275	59,382	59,489	59,596	59,703	59,811	59,918	60,025	60,132	60,239	60,347	
7	A	54,902	54,999	55,097	55,194	55,291	55,389	55,486	55,583	55,681	55,778	55,875	55,973	
	B	60,454	60,561	60,668	60,775	60,883	60,990	61,097	61,204	61,311	61,418	61,526	61,633	
8	A	56,070	56,167	56,265	56,362	56,459	56,557	56,654	56,751	56,849	56,946	57,043	57,141	
	B	61,740	61,847	61,954	62,062	62,169	62,276	62,383	62,490	62,598	62,705	62,812	62,919	
9	A	57,238	57,335	57,433	57,530	57,628	57,725	57,822	57,920	58,017	58,114	58,212	58,309	
	B	63,026	63,133	63,241	63,348	63,455	63,562	63,669	63,777	63,884	63,991	64,098	64,205	
10	A	58,406	58,504	58,601	58,698	58,796	58,893	58,990	59,088	59,185	59,282	59,380	59,477	
	B	64,313	64,420	64,527	64,634	64,741	64,848	64,956	65,063	65,170	65,277	65,384	65,492	
11	A	59,574	59,672	59,769	59,866	59,964	60,061	60,158	60,256	60,353	60,450	60,548	60,645	
	B	65,599	65,706	65,813	65,920	66,028	66,135	66,242	66,349	66,456	66,563	66,671	66,778	
12	A	60,743	60,840	60,937	61,035	61,132	61,229	61,327	61,424	61,521	61,619	61,716	61,813	
	B	66,885	66,992	67,099	67,207	67,314	67,421	67,528	67,635	67,743	67,850	67,957	68,064	
13	A	61,911	62,008	62,105	62,203	62,300	62,397	62,495	62,592	62,689	62,787	62,884	62,981	
	B	68,171	68,278	68,386	68,493	68,600	68,707	68,814	68,922	69,029	69,136	69,243	69,350	
14	A	63,079	63,176	63,273	63,371	63,468	63,565	63,663	63,760	63,858	63,955	64,052	64,150	
	B	69,458	69,565	69,672	69,779	69,886	69,993	70,101	70,208	70,315	70,422	70,529	70,637	
15	A	64,247	64,344	64,442	64,539	64,636	64,734	64,831	64,928	65,026	65,123	65,220	65,318	
	B	70,744	70,851	70,958	71,065	71,173	71,280	71,387	71,494	71,601	71,708	71,816	71,923	
16	A	65,415	65,512	65,610	65,707	65,804	65,902	65,999	66,096	66,194	66,291	66,388	66,486	
	B	72,030	72,137	72,244	72,352	72,459	72,566	72,673	72,780	72,888	72,995	73,102	73,209	
17	A	66,583	66,680	66,778	66,875	66,973	67,070	67,167	67,265	67,362	67,459	67,557	67,654	
	B	73,316	73,423	73,531	73,638	73,745	73,852	73,959	74,067	74,174	74,281	74,388	74,495	
18	A	67,751												
	B	74,603												

Computation Formula: Weight = 1.5 X 700 (L + 40)

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

Legend:

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 11.25%.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 22.5%.

**Table 3.07. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 6 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3'	31,150	31,150	31,150	31,150	31,150	50,716	50,813	50,911	51,008	51,105	51,203	51,300
B		34,300	34,000	34,300	34,300	34,300	55,845	55,952	56,059	56,166	56,273	56,381	56,488
A	4'	51,398	51,495	51,592	51,690	51,787	51,884	51,982	52,079	52,176	52,274	52,371	52,468
B		56,595	56,702	56,809	56,917	57,024	57,131	57,238	57,345	57,453	57,560	57,667	57,774
A	5'	52,566	52,663	52,760	52,858	52,955	53,052	53,150	53,247	53,344	53,442	53,539	53,636
B		57,881	57,988	58,096	58,203	58,310	58,417	58,524	58,632	58,739	58,846	58,953	59,060
A	6'	53,734	53,831	53,928	54,026	54,123	54,220	54,318	54,415	54,513	54,610	54,707	54,805
B		59,168	59,275	59,382	59,489	59,596	59,703	59,811	59,918	60,025	60,132	60,239	60,347
A	7'	54,902	54,999	55,097	55,194	55,291	55,389	55,486	55,583	55,681	55,778	55,875	55,973
B		60,454	60,561	60,668	60,775	60,883	60,990	61,097	61,204	61,311	61,418	61,526	61,633
A	8'	56,070	56,167	56,265	56,362	56,459	56,557	56,654	56,751	56,849	56,946	57,043	57,141
B		61,740	61,847	61,954	62,062	62,169	62,276	62,383	62,490	62,598	62,705	62,812	62,919
A	9'	57,238	57,335	57,433	57,530	57,628	57,725	57,822	57,920	58,017	58,114	58,212	58,309
B		63,026	63,133	63,241	63,348	63,455	63,562	63,669	63,777	63,884	63,991	64,098	64,205
A	10'	58,406	58,504	58,601	58,698	58,796	58,893	58,990	59,088	59,185	59,282	59,380	59,477
B		64,313	64,420	64,527	64,634	64,741	64,848	64,956	65,063	65,170	65,277	65,384	65,492
A	11'	59,574	59,672	59,769	59,866	59,964	60,061	60,158	60,256	60,353	60,450	60,548	60,645
B		65,599	65,706	65,813	65,920	66,028	66,135	66,242	66,349	66,456	66,563	66,671	66,778
A	12'	60,743	60,840	60,937	61,035	61,132	61,229	61,327	61,424	61,521	61,619	61,716	61,813
B		66,885	66,992	67,099	67,207	67,314	67,421	67,528	67,635	67,743	67,850	67,957	68,064
A	13'	61,911	62,008	62,105	62,203	62,300	62,397	62,495	62,592	62,689	62,787	62,884	62,981
B		68,171	68,278	68,386	68,493	68,600	68,707	68,814	68,922	69,029	69,136	69,243	69,350
A	14'	63,079	63,176	63,273	63,371	63,468	63,565	63,663	63,760	63,858	63,955	64,052	64,150
B		69,458	69,565	69,672	69,779	69,886	69,993	70,101	70,208	70,315	70,422	70,529	70,637
A	15'	64,247	64,344	64,442	64,539	64,636	64,734	64,831	64,928	65,026	65,123	65,220	65,318
B		70,744	70,851	70,958	71,065	71,173	71,280	71,387	71,494	71,601	71,708	71,816	71,923
A	16'	65,415	65,512	65,610	65,707	65,804	65,902	65,999	66,096	66,194	66,291	66,388	66,486
B		72,030	72,137	72,244	72,352	72,459	72,566	72,673	72,780	72,888	72,995	73,102	73,209
A	17'	66,583	66,680	66,778	66,875	66,973	67,070	67,167	67,265	67,362	67,459	67,557	67,654
B		73,316	73,423	73,531	73,638	73,745	73,852	73,959	74,067	74,174	74,281	74,388	74,495
A	18'	67,751											
B		74,603											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 11.25%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 22.5%.

**Table 3.08: Maximum Permitted Weight Computations: Axle Width - 9 Feet 9 Inches**  
**Overweight Axle Group Chart**  
 Distance between the center of the front axle and the center of the rear axle of a given group.

			Inches											
			0	1	2	3	4	5	6	7	8	9	10	11
Feet	3	A	31,675	31,675	31,675	31,675	31,675	31,675	51,670	51,769	51,868	51,967	52,066	52,165
		B	34,650	34,650	34,650	34,650	34,650	34,650	56,523	56,631	56,739	56,848	56,956	57,064
4	A	52,264	52,363	52,462	52,561	52,660	52,759	52,858	52,957	53,056	53,155	53,254	53,353	
	B	57,173	57,281	57,389	57,497	57,606	57,714	57,822	57,930	58,039	58,147	58,255	58,364	
5	A	53,452	53,551	53,650	53,749	53,848	53,946	54,045	54,144	54,243	54,342	54,441	54,540	
	B	58,472	58,580	58,688	58,797	58,905	59,013	59,122	59,230	59,338	59,446	59,555	59,663	
6	A	54,639	54,738	54,837	54,936	55,035	55,134	55,233	55,332	55,431	55,530	55,629	55,728	
	B	59,771	59,880	59,988	60,096	60,204	60,313	60,421	60,529	60,638	60,746	60,854	60,962	
7	A	55,827	55,926	56,025	56,124	56,223	56,322	56,421	56,520	56,619	56,718	56,817	56,916	
	B	61,071	61,179	61,287	61,395	61,504	61,612	61,720	61,829	61,937	62,045	62,153	62,262	
8	A	57,015	57,114	57,213	57,312	57,411	57,510	57,609	57,708	57,807	57,906	58,005	58,104	
	B	62,370	62,478	62,587	62,695	62,803	62,911	63,020	63,128	63,236	63,345	63,453	63,561	
9	A	58,203	58,302	58,401	58,500	58,599	58,698	58,797	58,896	58,995	59,094	59,193	59,292	
	B	63,669	63,778	63,886	63,994	64,103	64,211	64,319	64,427	64,536	64,644	64,752	64,860	
10	A	59,391	59,490	59,589	59,688	59,787	59,886	59,985	60,084	60,183	60,281	60,380	60,479	
	B	64,969	65,077	65,185	65,294	65,402	65,510	65,618	65,727	65,835	65,943	66,052	66,160	
11	A	60,578	60,677	60,776	60,875	60,974	61,073	61,172	61,271	61,370	61,469	61,568	61,667	
	B	66,268	66,376	66,485	66,593	66,701	66,810	66,918	67,026	67,134	67,243	67,351	67,459	
12	A	61,766	61,865	61,964	62,063	62,162	62,261	62,360	62,459	62,558	62,657	62,756	62,855	
	B	67,568	67,676	67,784	67,892	68,001	68,109	68,217	68,325	68,434	68,542	68,650	68,759	
13	A	62,954	63,053	63,152	63,251	63,350	63,449	63,548	63,647	63,746	63,845	63,944	64,043	
	B	68,867	68,975	69,083	69,192	69,300	69,408	69,517	69,625	69,733	69,841	69,950	70,058	
14	A	64,142	64,241	64,340	64,439	64,538	64,637	64,736	64,835	64,934	65,033	65,132	65,231	
	B	70,166	70,275	70,383	70,491	70,599	70,708	70,816	70,924	71,033	71,141	71,249	71,357	
15	A	65,330	65,429	65,528	65,627	65,726	65,825	65,924	66,023	66,122	66,221	66,320	66,419	
	B	71,466	71,574	71,682	71,790	71,899	72,007	72,115	72,224	72,332	72,440	72,548	72,657	
16	A	66,518	66,616	66,715	66,814	66,913	67,012	67,111	67,210	67,309	67,408	67,507	67,606	
	B	72,765	72,873	72,982	73,090	73,198	73,306	73,415	73,523	73,631	73,740	73,848	73,956	
17	A	67,705	67,804	67,903	68,002	68,101	68,200	68,299	68,398	68,497	68,596	68,695	68,794	
	B	74,064	74,173	74,281	74,389	74,498	74,606	74,714	74,822	74,931	75,039	75,147	75,255	
18	A	68,893												
	B	75,364												

Computation Formula: Weight = 1.5 X 700 (L + 40)

(L = Distance between the center of the front axle and the center of the rear axle of a given group.)

Legend:

Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 13.125%.

Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 23.75%.

**Table 3.08. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 9 Feet 9 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3'	31.675	31.675	31.675	31.675	31.675	51.571	51.670	51.769	51.868	51.967	52.066	52.165
B		34.650	34.650	34.650	34.650	34.650	56.415	56.523	56.631	56.739	56.848	56.956	57.064
A	4'	52.264	52.363	52.462	52.561	52.660	52.759	52.858	52.957	53.056	53.155	53.254	53.353
B		57.173	57.281	57.389	57.497	57.606	57.714	57.822	57.930	58.039	58.147	58.255	58.364
A	5'	53.452	53.551	53.650	53.749	53.848	53.946	54.045	54.144	54.243	54.342	54.441	54.540
B		58.472	58.580	58.688	58.797	58.905	59.013	59.122	59.230	59.338	59.446	59.555	59.663
A	6'	54.639	54.738	54.837	54.936	55.035	55.134	55.233	55.332	55.431	55.530	55.629	55.728
B		59.771	59.880	59.988	60.096	60.204	60.313	60.421	60.529	60.638	60.746	60.854	60.962
A	7'	55.827	55.926	56.025	56.124	56.223	56.322	56.421	56.520	56.619	56.718	56.817	56.916
B		61.071	61.179	61.287	61.395	61.504	61.612	61.720	61.829	61.937	62.045	62.153	62.262
A	8'	57.015	57.114	57.213	57.312	57.411	57.510	57.609	57.708	57.807	57.906	58.005	58.104
B		62.370	62.478	62.587	62.695	62.803	62.911	63.020	63.128	63.236	63.345	63.453	63.561
A	9'	58.203	58.302	58.401	58.500	58.599	58.698	58.797	58.896	58.995	59.094	59.193	59.292
B		63.669	63.778	63.886	63.994	64.103	64.211	64.319	64.427	64.536	64.644	64.752	64.860
A	10'	59.391	59.490	59.589	59.688	59.787	59.886	59.985	60.084	60.183	60.281	60.380	60.479
B		64.969	65.077	65.185	65.294	65.402	65.510	65.618	65.727	65.835	65.943	66.052	66.160
A	11'	60.578	60.677	60.776	60.875	60.974	61.073	61.172	61.271	61.370	61.469	61.568	61.667
B		66.268	66.376	66.485	66.593	66.701	66.810	66.918	67.026	67.134	67.243	67.351	67.459
A	12'	61.766	61.865	61.964	62.063	62.162	62.261	62.360	62.459	62.558	62.657	62.756	62.855
B		67.568	67.676	67.784	67.892	68.001	68.109	68.217	68.325	68.434	68.542	68.650	68.759
A	13'	62.954	63.053	63.152	63.251	63.350	63.449	63.548	63.647	63.746	63.845	63.944	64.043
B		68.867	68.975	69.083	69.192	69.300	69.408	69.517	69.625	69.733	69.841	69.950	70.058
A	14'	64.142	64.241	64.340	64.439	64.538	64.637	64.736	64.835	64.934	65.033	65.132	65.231
B		70.166	70.275	70.383	70.491	70.599	70.708	70.816	70.924	71.033	71.141	71.249	71.357
A	15'	65.330	65.429	65.528	65.627	65.726	65.825	65.924	66.023	66.122	66.221	66.320	66.419
B		71.466	71.574	71.682	71.790	71.899	72.007	72.115	72.224	72.332	72.440	72.548	72.657
A	16'	66.518	66.616	66.715	66.814	66.913	67.012	67.111	67.210	67.309	67.408	67.507	67.606
B		72.765	72.873	72.982	73.090	73.198	73.306	73.415	73.523	73.631	73.740	73.848	73.956
A	17'	67.705	67.804	67.903	68.002	68.101	68.200	68.299	68.398	68.497	68.596	68.695	68.794
B		74.064	74.173	74.281	74.389	74.498	74.606	74.714	74.822	74.931	75.039	75.147	75.255
A	18'	68.893											
B		75.364											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 13.125%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 23.75%.

**Table 3.09: Maximum Permitted Weight Computations: Axle Width - 10 Feet**  
**Overweight Axle Group Chart**  
 Distance between the center of the front axle and the center of the rear axle of a given group:

			Inches											
			0	1	2	3	4	5	6	7	8	9	10	11
Feet	3	A	32,200	32,200	32,200	32,200	32,200	32,200	52,526	52,627	52,728	52,828	52,929	53,029
		B	35,000	35,000	35,000	35,000	35,000	35,000	57,094	57,203	57,313	57,422	57,531	57,641
4	A	53,130	53,231	53,331	53,432	53,533	53,633	53,734	53,834	53,935	54,036	54,136	54,237	
	B	57,750	57,859	57,969	58,078	58,188	58,297	58,406	58,516	58,625	58,734	58,844	58,953	
5	A	54,338	54,438	54,539	54,639	54,740	54,841	54,941	55,042	55,143	55,243	55,344	55,444	
	B	59,063	59,172	59,281	59,391	59,500	59,609	59,719	59,828	59,938	60,047	60,156	60,266	
6	A	55,545	55,646	55,746	55,847	55,948	56,048	56,149	56,249	56,350	56,451	56,551	56,652	
	B	60,375	60,484	60,594	60,703	60,813	60,922	61,031	61,141	61,250	61,359	61,469	61,578	
7	A	56,753	56,853	56,954	57,054	57,155	57,256	57,356	57,457	57,558	57,658	57,759	57,859	
	B	61,688	61,797	61,906	62,016	62,125	62,234	62,344	62,453	62,563	62,672	62,781	62,891	
8	A	57,960	58,061	58,161	58,262	58,363	58,463	58,564	58,664	58,765	58,866	58,966	59,067	
	B	63,000	63,109	63,219	63,328	63,438	63,547	63,656	63,766	63,875	63,984	64,094	64,203	
9	A	59,168	59,268	59,369	59,469	59,570	59,671	59,771	59,872	59,973	60,073	60,174	60,274	
	B	64,313	64,422	64,531	64,641	64,750	64,859	64,969	65,078	65,188	65,297	65,406	65,516	
10	A	60,375	60,476	60,576	60,677	60,778	60,878	60,979	61,079	61,180	61,281	61,381	61,482	
	B	65,625	65,734	65,844	65,953	66,063	66,172	66,281	66,391	66,500	66,609	66,719	66,828	
11	A	61,583	61,683	61,784	61,884	61,985	62,086	62,186	62,287	62,388	62,488	62,589	62,689	
	B	66,938	67,047	67,156	67,266	67,375	67,484	67,594	67,703	67,813	67,922	68,031	68,141	
12	A	62,790	62,891	62,991	63,092	63,193	63,293	63,394	63,494	63,595	63,696	63,796	63,897	
	B	68,250	68,359	68,469	68,578	68,688	68,797	68,906	69,016	69,125	69,234	69,344	69,453	
13	A	63,998	64,098	64,199	64,299	64,400	64,501	64,601	64,702	64,803	64,903	65,004	65,104	
	B	69,563	69,672	69,781	69,891	70,000	70,109	70,219	70,328	70,438	70,547	70,656	70,766	
14	A	65,205	65,306	65,406	65,507	65,608	65,708	65,809	65,909	66,010	66,111	66,211	66,312	
	B	70,875	70,984	71,094	71,203	71,313	71,422	71,531	71,641	71,750	71,859	71,969	72,078	
15	A	66,413	66,513	66,614	66,714	66,815	66,916	67,016	67,117	67,218	67,318	67,419	67,519	
	B	72,188	72,297	72,406	72,516	72,625	72,734	72,844	72,953	73,063	73,172	73,281	73,391	
16	A	67,620	67,721	67,821	67,922	68,023	68,123	68,224	68,324	68,425	68,526	68,626	68,727	
	B	73,500	73,609	73,719	73,828	73,938	74,047	74,156	74,266	74,375	74,484	74,594	74,703	
17	A	68,828	68,928	69,029	69,129	69,230	69,331	69,431	69,532	69,633	69,733	69,834	69,934	
	B	74,813	74,922	75,031	75,141	75,250	75,359	75,469	75,578	75,688	75,797	75,906	76,016	
18	A	70,035												
	B	76,125												

Computation Formula:  $Weight = 1.5 \times 700 (L + 40)$   
 (L = Distance between the center of the front axle and the center of the rear axle of a given group.)

**Legend:**

- Line A: Four tires per axle or two 14-inch wide tires. Value is the formula weight plus 15%.
- Line B: Eight tires per axle or four 14-inch wide tires. Value is the formula weight plus 25%.

**Table 3.09. Maximum Permitted Weight Computations for Overweight Axle Groups - Axle Width 10 Feet 0 Inches**

Maximum allowable axle group weights determined by using the computation formula:  $Weight = 1.5 \times 700 (L + 40)$ , where:  
 L = Distance between the center of the front axle and the center of the rear axle of any group of axles within a space of 3' 5" to 18' 0".

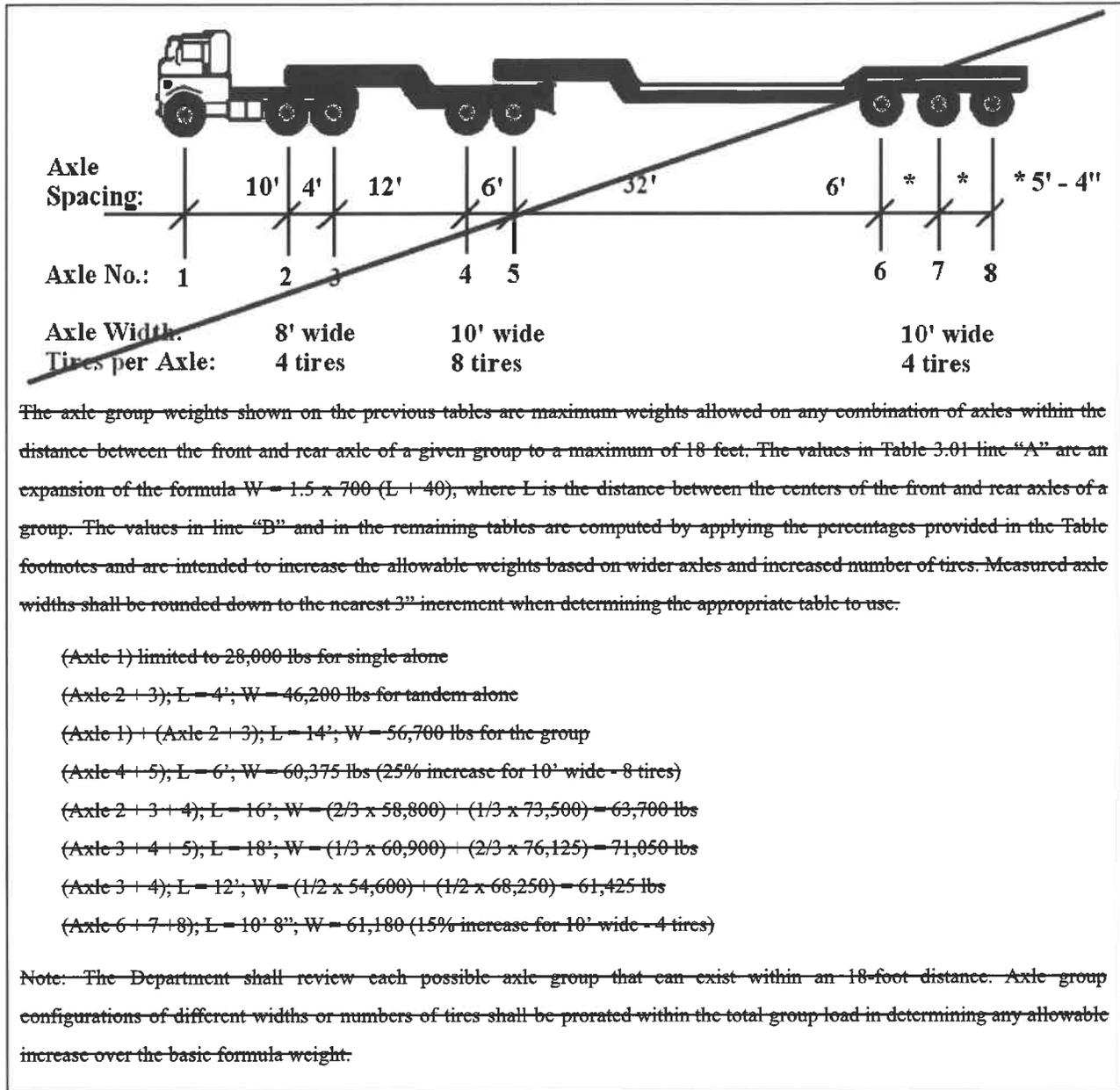
	L =	0" →	1"	2"	3"	4"	5"	6"	7"	8"	9"	10"	11"
A	3'	32.200	32.200	32.200	32.200	32.200	52.426	52.526	52.627	52.728	52.828	52.929	53.029
B		35.000	35.000	35.000	35.000	35.000	56.984	57.094	57.203	57.313	57.422	57.531	57.641
A	4'	53.130	53.231	53.331	53.432	53.533	53.633	53.734	53.834	53.935	54.036	54.136	54.237
B		57.750	57.859	57.969	58.078	58.188	58.297	58.406	58.516	58.625	58.734	58.844	58.953
A	5'	54.338	54.438	54.539	54.639	54.740	54.841	54.941	55.042	55.143	55.243	55.344	55.444
B		59.063	59.172	59.281	59.391	59.500	59.609	59.719	59.828	59.938	60.047	60.156	60.266
A	6'	55.545	55.646	55.746	55.847	55.948	56.048	56.149	56.249	56.350	56.451	56.551	56.652
B		60.375	60.484	60.594	60.703	60.813	60.922	61.031	61.141	61.250	61.359	61.469	61.578
A	7'	56.753	56.853	56.954	57.054	57.155	57.256	57.356	57.457	57.558	57.658	57.759	57.859
B		61.688	61.797	61.906	62.016	62.125	62.234	62.344	62.453	62.563	62.672	62.781	62.891
A	8'	57.960	58.061	58.161	58.262	58.363	58.463	58.564	58.664	58.765	58.866	58.966	59.067
B		63.000	63.109	63.219	63.328	63.438	63.547	63.656	63.766	63.875	63.984	64.094	64.203
A	9'	59.168	59.268	59.369	59.469	59.570	59.671	59.771	59.872	59.973	60.073	60.174	60.274
B		64.313	64.422	64.531	64.641	64.750	64.859	64.969	65.078	65.188	65.297	65.406	65.516
A	10'	60.375	60.476	60.576	60.677	60.778	60.878	60.979	61.079	61.180	61.281	61.381	61.482
B		65.625	65.734	65.844	65.953	66.063	66.172	66.281	66.391	66.500	66.609	66.719	66.828
A	11'	61.583	61.683	61.784	61.884	61.985	62.086	62.186	62.287	62.388	62.488	62.589	62.689
B		66.938	67.047	67.156	67.266	67.375	67.484	67.594	67.703	67.813	67.922	68.031	68.141
A	12'	62.790	62.891	62.991	63.092	63.193	63.293	63.394	63.494	63.595	63.696	63.796	63.897
B		68.250	68.359	68.469	68.578	68.688	68.797	68.906	69.016	69.125	69.234	69.344	69.453
A	13'	63.998	64.098	64.199	64.299	64.400	64.501	64.601	64.702	64.803	64.903	65.004	65.104
B		69.563	69.672	69.781	69.891	70.000	70.109	70.219	70.328	70.438	70.547	70.656	70.766
A	14'	65.205	65.306	65.406	65.507	65.608	65.708	65.809	65.909	66.010	66.111	66.211	66.312
B		70.875	70.984	71.094	71.203	71.313	71.422	71.531	71.641	71.750	71.859	71.969	72.078
A	15'	66.413	66.513	66.614	66.714	66.815	66.916	67.016	67.117	67.218	67.318	67.419	67.519
B		72.188	72.297	72.406	72.516	72.625	72.734	72.844	72.953	73.063	73.172	73.281	73.391
A	16'	67.620	67.721	67.821	67.922	68.023	68.123	68.224	68.324	68.425	68.526	68.626	68.727
B		73.500	73.609	73.719	73.828	73.938	74.047	74.156	74.266	74.375	74.484	74.594	74.703
A	17'	68.828	68.928	69.029	69.129	69.230	69.331	69.431	69.532	69.633	69.733	69.834	69.934
B		74.813	74.922	75.031	75.141	75.250	75.359	75.469	75.578	75.688	75.797	75.906	76.016
A	18'	70.035											
B		76.125											

Legend (Tire measurement excludes any load-induced tire bulge):

Line A: Four tires per axle or two 14-inch wide tires per axle. Value is the formula weight plus 15%.

Line B: Eight tires per axle or four 14-inch wide tires per axle. Value is the formula weight plus 25%.

**Illustration 3: Overweight Axle Groups Repealed**



**R17-6-412. Highway-specific Restrictions, Requirements, Conditions, and Allowances**

- A. The Department may temporarily prohibit operation of an oversize or overweight envelope or special permitted vehicle, or impose additional weight restrictions, requirements, conditions, or allowances, if safe transport on a highway under the Department's jurisdiction is unavoidably affected by a temporary construction or maintenance project, incident, or emergency situation as indicated on the Department's ~~web site~~ at [www.az511.gov](http://www.az511.gov) Arizona Traveler Information System at [AZ511.gov](http://AZ511.gov).
- B. The Department shall post to its ~~web site~~ website at [www.azdot.gov](http://www.azdot.gov) all updates to any temporary or permanent highway restrictions, requirements, conditions, or allowances affecting a route listed under Table 4 as appropriate for safe transport of an oversize or overweight vehicle or vehicle and load.

- C. A permittee and driver shall check the Department’s ~~web site~~ website at [www.azdot.gov](http://www.azdot.gov) daily for updates to any temporary or permanent highway restrictions, requirements, conditions, or allowances affecting safe transport of an oversize or overweight vehicle or vehicle and load on a route listed under Table 4.
- D. A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under Table 4 unless operating in full compliance with all indicated permanent highway restrictions, requirements, conditions and allowances, including any additional instructions indicated on the envelope or special permit issued by the Department.
- E. When more than two escort vehicles are required on a route listed under Table 4 due to excess height, length, width, or weight, only two law enforcement escorts are required to ensure the public safety. Multiples of two law enforcement escorts are not required for each excess dimension unless specifically required under a class C special permit.
- ~~E.F.~~ A permittee and driver shall additionally check daily for up-to-date information on traffic conditions, road closures, and restrictions by:
1. Accessing the Department’s ~~Traffic Operations Center online at [www.az511.gov](http://www.az511.gov)~~ Arizona Traveler Information System at [AZ511.gov](http://AZ511.gov); or
  2. Contacting a highway project engineer at the ADOT district office identified on the Department’s ~~web site at [www.azdot.gov/Highways](http://www.azdot.gov/Highways)~~ website as the office responsible for oversight of the permittee’s applicable transport route.
- ~~F.G.~~ The information contained in Table 4 reflects highway restrictions, requirements, conditions, and allowances applicable on the effective date of this Section. ~~Real-time updates published~~ The Department shall publish real-time updates as an addendum to Table 4 are posted by the Department to and make those updates available on its ~~web site~~ website at [www.azdot.gov](http://www.azdot.gov), the Arizona Central Commercial Permits ~~office,~~ Office, ~~and~~ the Class C Maintenance Permit Services Unit, and all Arizona Port of Entry locations. This information is critical for ensuring safe transport of an oversize or overweight vehicle or load and is subject to immediate change as provided under this Section.

**Table 4. Permanent Highway Restrictions, Requirements, Conditions, and Allowances**

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
<u>Interstate 8</u>	<u>MP 0.00 (California State Line) to MP 144.55 (Vickot Road TI)</u>	<u>R17-6-405; R17-6-406; R17-6-408; R17-6-409</u>			<u>Over 14' - 16' = R</u>	
<u>Interstate 8</u>	<u>MP 0.00 (California State Line) to MP 21.06 (Dome Valley Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
<u>Interstate 8</u>	<u>MP 21.06 Westbound (Dome Valley Road TI Underpass - Structure 1325)</u>	<u>R17-6-402; R17-6-403</u>	<u>15' 11"</u>		<u>Over 14' - 16' = R</u>	
<u>Interstate 8</u>	<u>MP 21.06 (Dome Valley Road TI) to MP 30.80 (Avenue 29E - Wellton TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
<u>Interstate 8</u>	<u>MP 30.80 Westbound (Avenue 29E - Wellton Underpass - Structure 1332)</u>	<u>R17-6-402; R17-6-403</u>	<u>15' 11"</u>		<u>Over 14' - 16' = R</u>	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 8	<u>MP 30.80 (Avenue 29E - Wellton TI) to MP 144.55 (Vekol Valley Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
Interstate 8	MP 144.55 (Vekol Valley Road Underpass - Structure 550)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 11"		Over 14' - 16' = R	
Interstate 8	MP 144.55 (Vekol Valley Road TI) to MP 151.70 (Junction SR 84 FF)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 8	MP 151.70 Eastbound (Junction SR 84 FF Underpass - Structure 1063)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	<del>15' 11"</del> <u>15' 10"</u>		Over 14' - 16' = R	
Interstate 8	<u>MP 151.70 (SR 84 TI) to MP 162.50 (Murphy Road)</u>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
Interstate 8	<u>MP 151.70 (Junction SR 84) to MP 161.60 (Stanfield Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
Interstate 8	<u>MP 161.60 Eastbound (Stanfield Road Underpass - Structure 1090)</u>	<u>R17-6-402; R17-6-403</u>	<u>15' 10"</u>		<u>Over 14' - 16' = R</u>	
Interstate 8	<u>MP 161.60 (Stanfield Road TI) to MP 162.50 (Murphy Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
Interstate 8	MP 162.50 Westbound (Murphy Road Underpass - Structure 1091)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 11"		Over 14' - 16' = R	
Interstate 8	<u>MP 162.50 (Murphy Road) to MP 172.55 (Thornton Road)</u>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
Interstate 8	<u>MP 162.50 (Murphy Road TI) to MP 164.50 (Russell Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
Interstate 8	<u>MP 164.50 Eastbound (Russell Road Underpass - Structure 1094)</u>	<u>R17-6-402; R17-6-403</u>	<u>15' 10"</u>		<u>Over 14' - 16' = R</u>	
Interstate 8	<u>MP 164.50 (Russell Road TI) to MP 167.50 (Montgomery Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
Interstate 8	<u>MP 167.50 Eastbound (Montgomery Road Underpass - Structure 1140)</u>	<u>R17-6-402; R17-6-403</u>	<u>15' 10"</u>		<u>Over 14' - 16' = R</u>	
Interstate 8	<u>MP 167.50 (Montgomery Road TI) to MP 172.55 (Thornton Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
Interstate 8	MP 172.55 Eastbound (Thornton Road Underpass - Structure 1196)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 8"		Over 14' - 16' = R	
Interstate 8	MP 172.55 Westbound (Thornton Road Underpass - Structure 1196)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 7"		Over 14' - 16' = R	
Interstate 8	MP 172.55 (Thornton Road TI) to MP 173.53 (Chuichu Road)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 8	MP 173.53 Eastbound (Chuichu Road Underpass - Structure 1197)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	<del>15' 10"</del> <u>15' 9"</u>		Over 14' - 16' = R	
Interstate 8	MP 173.53 (Chuichu Road) to MP 178.70 (Junction I-10)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 0.00 (California State Line) to MP 5.84 (Tom Wells Road TI)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 10	MP 5.84 Eastbound (Tom Wells Road Underpass - Structure 767)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 10"		Over 14' - 16' = R	
<u>Interstate 10</u>	<u>MP 5.84 Westbound (Tom Wells Road Underpass - Structure 767)</u>	<u>R17-6-402; R17-6-403</u>	<u>15' 11"</u>		<u>Over 14' - 16' = R</u>	
Interstate 10	MP 5.84 (Tom Wells Road TI) to MP 17.50 (Junction SB 10 - West Quartzsite H Blvd)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 17.50 (SB 10 Underpass - West Quartzsite Blvd Underpass - Structure 826)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 8"		Over 14' - 16' = R	
Interstate 10	MP 17.50 (Junction SB 10 - West Quartzsite H Blvd) to MP 26.65 (Gold Nugget Mountain Road TI)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 26.65 Westbound (Gold Nugget Mountain Road Underpass - Structure 769)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 10"		Over 14' - 16' = R	
<del>Interstate 10</del>	<del>MP 26.65 (Gold Nugget Mountain) to MP 33.78 (Ramsey Mine TI)</del>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<del>Interstate 10</del>	<del>MP 33.78 Eastbound (Ramsey Mine Underpass - Structure 1202)</del>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>	<del>15' 11"</del>		<del>Over 14' - 16' = R</del>	
<del>Interstate 10</del>	<del>MP 33.78 (Ramsey Mine TI) to MP 45.34 (Vicksburg Road TI)</del>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<u>Interstate 10</u>	<u>MP 26.65 (Gold Nugget Road TI) to MP 45.34 (Vicksburg Road TI)</u>	<u>R17-6-402; R17-6-403</u>			<u>Over 14' - 16' = R</u>	
Interstate 10	MP 45.34 <u>Westbound</u> (Vicksburg Road Underpass - Structure 1207)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 7"		Over 14' - 16' = R	
<u>Interstate 10</u>	<u>MP 45.34 Eastbound (Vicksburg Road Underpass - Structure 1207)</u>	<u>R17-6-402; R17-6-403</u>	<u>15' 8"</u>		<u>Over 14' - 16' = R</u>	
Interstate 10	MP 45.34 (Vicksburg Road TI) to MP 69.60 (Avenue 75E TI)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 69.60 Westbound (Avenue 75E Underpass - Structure 1283)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 69.60 (Avenue 75E TI) to MP 81.21 (Salome Road TI)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 81.21 Eastbound (Salome Road Underpass - Structure 1209)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	<del>15' 11"</del> <u>15' 10"</u>		Over 14' - 16' = R	
Interstate 10	MP 81.21 Westbound (Salome Road Underpass - Structure 1209)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 9"		Over 14' - 16' = R	
Interstate 10	MP 81.21 (Salome Road TI) to MP 101.40 (355th Avenue)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 101.40 Westbound (355th Avenue Underpass - Structure 1647)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 8"		Over 14' - 16' = R	
Interstate 10	MP 101.40 (355th Avenue) to MP 133.98 (Junction SR 101 Loop)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 10	MP 133.98 (Junction SR 101) to MP 139.65 (51st Avenue TI)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 10	MP 139.65 Eastbound (51st Avenue Underpass - Structure 1930)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 139.65 (51st Avenue TI) to MP 145.19 (Deck Park Tunnel)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 10	MP 145.19 Eastbound (Deck Park Tunnel)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 7"		Over 14' - 16' = R	
Interstate 10	MP 145.19 (Deck Park Tunnel) to MP 147.21 (SR 51 TI)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 10	MP 147.21 (SR 51 Underpass)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 2"		Over 14' - 16' = R	
Interstate 10	MP 147.21 (SR 51 TI) to MP 161.35 (Junction SR 202, Santan)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 10	MP 133.98 (Junction SR 101 Loop) to MP 138.76 (Junction SR 202 Loop, South Mountain)	R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = R	
Interstate 10	MP 138.76 (Junction SR 202 Loop, South Mountain) to MP 140.65 (43rd Avenue TI)	R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = R	
Interstate 10	MP 140.65 Eastbound (43rd Avenue Underpass - Structure 1931)	R17-6-402; R17-6-403; R17-6-404	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 140.65 (43rd Avenue TI) to MP 161.35 (Junction SR 202 Loop, Santan)	R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = R	
Interstate 10	MP 161.35 (Junction SR 202 Loop, Santan) to MP 167.47 (Riggs Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 167.47 (Riggs Road Underpass - Structure 1148)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403	15' 9"		Over 14' - 16' = R	
Interstate 10	MP 167.47 (Riggs Road TI) to MP 169.85 (Goodyear Underpass Road)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 169.85 Eastbound (Goodyear Road Underpass - Structure 1149)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403	15' 10" 15' 9"		Over 14' - 16' = R	
Interstate 10	MP 169.85 (Goodyear Underpass Road) to MP 174.63 (Nelson Road)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403			Over 14' - 16' = R Over 14' - 16' = R	
Interstate 10	MP 174.63 Eastbound (Nelson Road Underpass - Structure 1213)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403	15' 11"		Over 14' - 16' = R Over 14' - 16' = R	
Interstate 10	MP 174.63 (Nelson Road) to MP 175.81 (Casa Blanca Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403			Over 14' - 16' = R Over 14' - 16' = R	
Interstate 10	MP 175.81 Eastbound (Casa Blanca Road Underpass - Structure 1214)	R17-6-405; R17-6-406; R17-6-408; R17-6-409; R17-6-402; R17-6-403	15' 11"		Over 14' - 16' = R Over 14' - 16' = R	
Interstate 10	MP 175.81 Westbound (Casa Blanca TI Underpass - Structure 1214)	R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 10"		Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 10	MP 175.81 (Casa Blanca Road TI) to MP 177.76 (Gas Line Road FF)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			<del>Over 14' - 16" = R</del> Over 14' - 16" = R	
Interstate 10	MP 177.76 Eastbound (Gas Line Road Underpass - Structure 1215)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	15' 11"		<del>Over 14' - 16" = R</del> Over 14' - 16" = R	
Interstate 10	MP 177.76 (Gas Line Road FF) to MP 179.39 (Seed Farm Road FF)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			<del>Over 14' - 16" = R</del> Over 14' - 16" = R	
Interstate 10	MP 179.39 Westbound (Seed Farm Road Underpass - Structure 1216)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	15' 10"		<del>Over 14' - 16" = R</del> Over 14' - 16" = R	
Interstate 10	<del>MP 179.39 (Seed Farm Road FF) to MP 195.89 (Earley Road)</del>	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>			<del>Over 14' - 16" = R</del>	
Interstate 10	MP 179.39 (Seed Farm Road) to MP 188.20 (Val Vista Road)	R17-6-402; R17-6-403			Over 14' - 16" = R	
Interstate 10	MP 188.20 Westbound (Val Vista Underpass - Structure 1152)	R17-6-402; R17-6-403	15' 9"		Over 14' - 16" = R	
Interstate 10	MP 188.20 (Val Vista Road) to MP 190.73 (McCartney Road TI)	R17-6-402; R17-6-403			Over 14' - 16" = R	
Interstate 10	MP 190.73 Westbound (McCartney Road Underpass - Structure 1153)	R17-6-402; R17-6-403	15' 9"		Over 14' - 16" = R	
Interstate 10	MP 190.73 (McCartney Road TI) to MP 193.88 (Cottonwood Lane)	R17-6-402; R17-6-403			Over 14' - 16" = R	
Interstate 10	MP 193.88 Eastbound (Cottonwood Lane Underpass - Structure 1154)	R17-6-402; R17-6-403	15' 7"		Over 14' - 16" = R	
Interstate 10	MP 193.88 Westbound (Cottonwood Lane Underpass - Structure 1154)	R17-6-402; R17-6-403	15' 11"		Over 14' - 16" = R	
Interstate 10	MP 193.88 (Cottonwood Lane) to MP 194.88 (Junction SR 287 - Florence Blvd)	R17-6-402; R17-6-403			Over 14' - 16" = R	
Interstate 10	MP 194.88 Eastbound (Junction SR 287 - Florence Blvd Underpass - Structure 1156)	R17-6-402; R17-6-403	15' 9"		Over 14' - 16" = R	
Interstate 10	MP 194.88 (Junction SR 287 - Florence Blvd) to MP 195.89 (Earley Road)	R17-6-402; R17-6-403			Over 14' - 16" = R	
Interstate 10	MP 195.89 (Earley Road Underpass - Structure 1158)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	15' 11"		<del>Over 14' - 16" = R</del> Over 14' - 16" = R	
Interstate 10	<del>MP 195.89 (Earley Road) to MP 202.84 (Tottec Road TI)</del>	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>			<del>Over 14' - 16" = R</del>	
Interstate 10	MP 195.89 (Earley Road) to MP 196.89 (Selma Highway)	R17-6-402; R17-6-403			Over 14' - 16" = R	
Interstate 10	MP 196.89 Eastbound (Selma Highway Underpass - Structure 1160)	R17-6-402; R17-6-403	15' 10"		Over 14' - 16" = R	
Interstate 10	MP 196.89 (Selma Highway) to MP 200.12 (Sunland Gin Road TI)	R17-6-402; R17-6-403			Over 14' - 16" = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 10	MP 200.12 Eastbound (Sunland Gin Road Underpass - Structure 941)	R17-6-402; R17-6-403	15' 8"		Over 14' - 16' = R	
Interstate 10	MP 200.12 Westbound (Sunland Gin Road Underpass - Structure 941)	R17-6-402; R17-6-403	15' 10"		Over 14' - 16' = R	
Interstate 10	MP 200.12 (Sunland Gin Road TI) to MP 203.84 (Toltec Road TI)	R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 203.84 Westbound (Toltec Road Underpass - Structure 2152)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 11" 15' 8"		Over 14' - 16' = R Over 14' - 16' = R	
Interstate 10	MP 203.84 (Toltec Road TI) to MP 205.45 (Battaglia Underpass Drive)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = R Over 14' - 16' = R	
Interstate 10	MP 205.45 (Battaglia Drive Underpass - Structure 943)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 9"		Over 14' - 16' = R	
Interstate 10	MP 205.45 (Battaglia Underpass) to MP 208.79 (Sunshine Blvd TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 10	MP 205.45 (Battaglia Drive) to MP 207.17 (Aلسdorf Road)	R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 207.17 Westbound (Aلسdorf Road Underpass - Structure 944)	R17-6-402; R17-6-403	15' 8"		Over 14' - 16' = R	
Interstate 10	MP 207.17 (Aلسdorf Road) to MP 208.79 (Sunshine Blvd TI)	R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 208.79 Eastbound (Sunshine Blvd Underpass - Structure 945)	R17-6-402; R17-6-403	15' 8"		Over 14' - 16' = R	
Interstate 10	MP 208.79 Westbound (Sunshine Blvd Underpass - Structure 945)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 208.79 (Sunshine Blvd TI) to MP 226.45 (Red Rock Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 226.45 Eastbound (Red Rock Road Underpass - Structure 592)	R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 226.45 Westbound (Red Rock Road Underpass - Structure 592)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 9" 15' 7"		Over 14' - 16' = R	
Interstate 10	MP 226.45 (Red Rock Road TI) to MP 236.42 (Marana Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 236.42 (Marana Road TI) to MP 270.57 (Kolb Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = R	
Interstate 10	MP 270.57 Eastbound (Kolb Road Underpass - Structure 1822)	R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 270.57 (Kolb Road TI) to MP 273.14 (Rita Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 10	MP 273.14 Eastbound (Rita Road Underpass - Structure 711)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 11"		Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 10	MP 273.14 (Rita Road TI) to MP 275.49 (Houghton Road TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 275.49 Westbound (Houghton Road Underpass - Structure 713)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	<del>15' 10"</del> <u>15' 11"</u>		Over 14' - 16' = R	
Interstate 10	MP 275.49 (Houghton Road TI) to MP 279.37 (Vail/Wentworth TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 279.37 Eastbound (Vail/Wentworth Underpass - Structure 744)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 11"		Over 14' - 16' = R	
<del>Interstate 10</del>	<del>MP 279.37 Westbound (Vail/Wentworth Underpass - Structure 745)</del>	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>	<del>15' 10"</del>		<del>Over 14' - 16' = R</del>	
<del>Interstate 10</del>	<del>MP 279.37 (Vail/Wentworth TI) to MP 339.46 (Airport Road)</del>	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
Interstate 10	MP 279.37 (Vail/Wentworth TI) to MP 297.17 (Mescal Road TI)	<u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 297.17 Westbound (Mescal Road Underpass - Structure 517)	<u>R17-6-402; R17-6-403</u>	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 297.17 (Mescal Road TI) to MP 339.46 (Airport Road)	<u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 339.46 Eastbound (Airport Road Underpass - Structure 1114)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 8"		Over 14' - 16' = R	
Interstate 10	MP 339.46 (Airport Road) to MP 378.93 (Junction SB 10, West of San Simon FF)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 378.93 Eastbound (SB 10 Underpass, West of San Simon Underpass - Structure 1164)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 10"		Over 14' - 16' = R	
Interstate 10	MP 378.93 Westbound (SB 10 Underpass, West of San Simon Underpass - Structure 1164)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 11"		Over 14' - 16' = R	
Interstate 10	MP 378.93 (Junction SB 10, West of San Simon FF) to MP 382.35 (Junction SB 10, East of San Simon FF)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10	MP 382.35 Eastbound (SB 10 Underpass, East of San Simon Underpass - Structure 1169)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	<del>15' 10"</del> <u>15' 9"</u>		Over 14' - 16' = R	
Interstate 10	MP 382.35 (Junction SB 10, East of San Simon FF) to MP 391.23 (New Mexico State Line)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 10 (Frontage Road)	MP 258.64 (Congress Street TI) to MP 259.34 (22nd Street TI)	<u>R17-6-402; R17-6-403</u>	*14' 6"		Over 14' - 16' = R	*Light rail - low electric cables.
Interstate 15	MP 0.00 (Nevada State Line) to MP 15.38 (Virgin River Bridge # 5)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>		Over 100' unarticulated non-articulated = F/R + 2 LE	Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 15	MP 15.38 Northbound (Virgin River Bridge #5 - Structure 1617)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>		Over 100' <del>unarticulated</del> <del>non-articulate</del> d = F/R + 2 LE	Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement <del>escorts</del> ; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. <del>Class C permitted vehicles</del> <del>with a gross weight of over</del> <del>250,000 require special</del> <del>analysis and approval from</del> <del>the ADOT Bridge Group.</del> <del>Class C permitted vehicles</del> <del>with a gross weight of:</del> <del>250,001 or more require</del> <del>special analysis and</del> <del>approval from the ADOT</del> <del>Bridge Group.</del>
Interstate 15	MP <del>15.38</del> <u>15.50</u> Southbound (Virgin River Bridge #5 - Structure 1618)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>		Over 100' <del>unarticulated</del> <del>non-articulate</del> d = F/R + 2 LE	Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement <del>escorts</del> ; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. <del>Class C permitted vehicles</del> <del>with a gross weight of over</del> <del>250,000 require special</del> <del>analysis and approval from</del> <del>the ADOT Bridge Group.</del> <del>Class C permitted vehicles</del> <del>with a gross weight of:</del> <del>250,001 or more require</del> <del>special analysis and</del> <del>approval from the ADOT</del> <del>Bridge Group.</del>
Interstate 15	MP 15.38 (Virgin River Bridge #5) to MP 29.40 (Utah State Line)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>		Over 100' <del>unarticulated</del> <del>non-articulate</del> d = F/R + 2 LE	Over 14' - 16' = F/R + 2 LE	
Interstate 17	MP 193.94 (Beginning of <del>route at</del> Junction I-10 and SR51) to MP 198.84 (Buckeye Road <del>II</del> )	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del> <u>R17-6-402;</u> <u>R17-6-403; R17-6-404</u>			Over 14' - 16' = R	
Interstate 17	MP 198.84 (Buckeye Road Underpass - Structure 607)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del> <u>R17-6-402;</u> <u>R17-6-403; R17-6-404</u>	<del>15' 5"</del> <u>15' 8"</u>		Over 14' - 16' = R	
Interstate 17	MP 198.84 (Buckeye Road <del>II</del> ) to MP 199.15 (Grant Street <del>II</del> )	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del> <u>R17-6-402;</u> <u>R17-6-403; R17-6-404</u>			Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 17	MP 199.15 (Grant Street Underpass - Structure 555)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	<del>15' 6"</del> <del>15' 5"</del>		Over 14' - 16' = R	
Interstate 17	MP 199.15 (Grant Street <del>II</del> ) to MP 199.35 (Railroad Underpass)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
Interstate 17	MP 199.35 Northbound (Railroad Underpass - Structure 600)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 8"		Over 14' - 16' = R	
<del>Interstate 17</del>	<del>MP 199.35 Southbound (Railroad Underpass - Structure 600)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>	<del>15' 7"</del>		<del>Over 14' - 16' = R</del>	
Interstate 17	MP 199.35 (Railroad Underpass) to MP 199.56 (Jefferson Street <del>II</del> )	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
Interstate 17	MP 199.56 Northbound (Jefferson Street Underpass - Structure 554)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 8"		Over 14' - 16' = R	
Interstate 17	MP 199.56 Southbound (Jefferson Street Underpass - Structure 554)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 7"		Over 14' - 16' = R	
<del>Interstate 17</del>	<del>MP 199.56 (Jefferson Street) to MP 214.74 (Utopia Road Ramp C)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<del>Interstate 17</del>	<del>MP 214.74 Northbound (Utopia Road Ramp C - Structure 2138)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>	<del>15' 11"</del>		<del>Over 14' - 16' = R</del>	
<del>Interstate 17</del>	<del>MP 214.74 (Utopia Road Ramp C) to MP 214.96 (Junction SR 101)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<del>Interstate 17</del>	<del>MP 214.96 (Junction SR 101) to MP 223.99 (Junction SR 74)</del>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<del>Interstate 17</del>	<del>MP 199.56 (Jefferson Street <del>II</del>) to MP 214.96 (Junction SR 101 Loop)</del>	<del>R17-6-402; R17-6-403;</del> <del>R17-6-404</del>			<del>Over 14' - 16' = R</del>	
<del>Interstate 17</del>	<del>MP 214.96 (Junction SR 101 Loop) to MP 221.94 (Junction SR 303 Loop - Sonoran Desert Drive <del>TI</del>)</del>	<del>R17-6-402; R17-6-403</del>			<del>Over 14' - 16' = R</del>	
<del>Interstate 17</del>	<del>MP 221.94 (Junction SR 303 Loop - Sonoran Desert Drive <del>TI</del>) to MP 223.99 (Junction SR 74)</del>	<del>R17-6-402; R17-6-403</del>			<del>Over 14' - 16' = R</del>	
Interstate 17	MP 224.00 Southbound (Carefree Highway Underpass - Structure 2845)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-407; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-407</del>			Over 14' - 16' = R	
Interstate 17	MP 224.00 (Carefree Highway <del>TI</del> ) to MP 229.07 (Anthem Road)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-407; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-407</del>			Over 14' - 16' = R	
Interstate 17	MP 229.07 (Anthem Road) to MP 235.94 (Table Mesa Road <del>TI</del> )	<del>R17-6-405; R17-6-406;</del> <del>R17-6-407; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-407</del>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 17	MP 235.94 Southbound (Table Mesa Road Underpass - Structure 1294)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>	15' 10"		Over 14' - 16' = F/R	
Interstate 17	MP 235.94 (Table Mesa Road TI) to MP 242.15 (Rock Spring Springs Road TI)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>			Over 14' - 16' = F/R	
Interstate 17	MP 242.15 (Rock Spring Springs Road Underpass - Structures 969 & 970)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>	15' 9"		Over 14' - 16' = R	
Interstate 17	MP 242.15 (Rock Spring Springs Road TI) to MP 289.97 (Middle Verde Road TI)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>			Over 14' - 16' = R	
Interstate 17	MP 289.97 Southbound Northbound (Middle Verde Road Underpass - Structure 1733)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>	15' 11"		Over 14' - 16' = R	
Interstate 17	MP 289.97 (Middle Verde Road TI) to MP 293.26 (Cornville/McGuireville TI Cornville Road TI)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>			Over 14' - 16' = R	
Interstate 17	MP 293.26 Southbound (Cornville/McGuireville Cornville Road Underpass - Structure 652)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>	<del>14' 8" 14' 9"</del>		Over 14' - 16' = R	
Interstate 17	MP 293.26 (Cornville/McGuireville Cornville Road TI) to MP 340.05 (End of route at Junction I-40)	<del>R17-6-405; R17-6-406; R17-6-407; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-407</del>			Over 14' - 16' = R	
Interstate 19	MP 0.00 / KP 0.00 (US/Mexico Border) to MP <del>13.96</del> MP 13.93 / KP 22.42 (Peck Canyon Road TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 19	<del>MP 13.96</del> MP 13.93 / KP 22.42 Northbound (Peck Canyon Road Underpass - Structure 935)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	15' 10"		Over 14' - 16' = R	
Interstate 19	<del>MP 13.96</del> MP 13.93 / KP 22.42 (Peck Canyon Road TI) to MP 26.54 MP 26.53 / KP 42.62 (Agua Linda Road TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 19	MP 26.54 MP 26.53 / KP 42.62 Northbound (Agua Linda Road Underpass - Structure 1739)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	<del>15' 10" 15' 11"</del>		Over 14' - 16' = R	
Interstate 19	<del>MP 26.54</del> MP 26.53 / KP 42.62 (Agua Linda Road TI) to <del>MP 59.09</del> MP 58.80 / KP 94.62 (Valencia Road TI; Kilometer Post 95.00)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 19	<del>MP 59.09</del> MP 58.80 / KP 94.62 (Valencia Road TI; Kilometer Post 95.00) to MP 60.95 MP 60.85 / KP 97.92 (Irvington Road TI)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
Interstate 19	<del>MP 60.95</del> MP 60.85 / KP 97.92 Southbound (Irvington Road Underpass - Structure 1123)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-404</del>	15' 11"		Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 19	<del>MP 60.95</del> <u>MP 60.85 / KP 97.92</u> (Irvington Road TI) to <del>MP 61.90</del> <u>MP 61.85 / KP 99.53</u> (Junction SR 86 - Ajo Way TI)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
Interstate 19	<del>MP 61.90</del> <u>MP 61.85 / KP 99.53</u> Southbound (Junction SR 86 - Ajo Way Underpass - Structure 1125)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-404</del>	<del>15' 9"</del> <u>15' 10"</u>		Over 14' - 16' = R	
Interstate 19	<del>MP 61.90</del> <u>MP 61.85 / KP 99.53</u> (Junction SR 86 - Ajo Way TI) to <del>MP 63.09</del> <u>MP 63.43 / KP 102.08</u> (Junction I-10)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
Interstate 40	MP 0.00 (California State Line) to MP 3.01 Westbound (Needle Mountain Road TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 40	MP 3.01 Westbound (Needle Mountain Road Underpass - Structure 1756)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	15' 11"		Over 14' - 16' = R	
Interstate 40	MP 3.01 Westbound (Needle Mountain Road TI) to MP 26.17 ( <del>East Yucca Proving Ground Road</del> TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 40	MP 26.17 Eastbound ( <del>East Yucca Proving Ground Road</del> Underpass - Structure 923)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	15' 10"		Over 14' - 16' = R	
Interstate 40	MP 26.17 ( <del>East Yucca Proving Ground Road</del> TI) to MP 37.03 (Griffith Road TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 40	MP 37.03 Eastbound (Griffith Road Underpass - Structure 928)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	15' 10"		Over 14' - 16' = R	
Interstate 40	MP 37.03 (Griffith Road TI) to MP 87.57 (Willow Ranch Road TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 40	MP 87.57 Westbound (Willow Ranch Road Underpass - Structure 1770)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	<del>15' 7"</del> <u>15' 9"</u>		Over 14' - 16' = R	
Interstate 40	MP 87.57 (Willow Ranch Road TI) to MP 117.87 (Canyon Mouth Dam Road)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 40	MP 117.87 Eastbound (Canyon Mouth Dam Road Underpass - Structure 1256)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	15' 11"		Over 14' - 16' = R	
Interstate 40	MP 117.87 (Canyon Mouth Dam Road) to MP 121.07 (Junction SB 40, West of Seligman <del>FF</del> )	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 40	MP 121.07 Eastbound ( <del>West Seligman Junction SB 40</del> Underpass - Structure 1258)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	15' 10"		Over 14' - 16' = R	
Interstate 40	MP 121.07 ( <del>Junction SB 40, West of Seligman FF</del> ) to MP 139.88 (Crookton Road TI)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>			Over 14' - 16' = R	
Interstate 40	MP 139.88 Westbound (Crookton Road Underpass - Structure 1177)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403</del>	15' 9"		Over 14' - 16' = R	
<del>Interstate 40</del>	<del>MP 139.88 (Crookton Road FF) to MP 167.52 (Garland Prairie FF)</del>	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
Interstate 40	MP 167.52 (Garland Prairie Underpass - Structure 739)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>	<del>15' 11"</del>		<del>Over 14' - 16' = R</del>	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and L.E. = law enforcement escort</b>						
Interstate 40	MP 167.52 (Garland Prairie TI) to MP 178.24 (Parks Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 40	MP 139.88 (Crookton Road TI) to MP 178.24 (Parks Road TI)	R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 40	MP 178.24 Eastbound (Parks Road Underpass - Structure 743)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 10"		Over 14' - 16' = R	
Interstate 40	MP 178.24 (Parks Road TI) to MP 201.10 (Country Club Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 40	MP 201.10 Westbound (Country Club Road Underpass - Structure 1926)	R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 11"		Over 14' - 16' = R	
Interstate 40	MP 201.10 (Country Club Road TI) to MP 204.87 (Walnut Canyon TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 40	MP 178.24 (Parks Road TI) to MP 204.87 (Walnut Canyon Road TI)	R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 40	MP 204.87 Eastbound (Walnut Canyon Road Underpass - Structure 1270)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 9"		Over 14' - 16' = R	
Interstate 40	MP 204.87 Westbound (Walnut Canyon Road Underpass - Structure 1271)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 11"		Over 14' - 16' = R	
Interstate 40	MP 204.87 (Walnut Canyon TI) to MP 207.24 (Cosnimo Road)	R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 40	MP 207.24 Westbound (Cosnimo Road Underpass - Structure 1361)	R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 6"		Over 14' - 16' = R	
Interstate 40	MP 207.24 (Cosnimo Road) to MP 211.16 (Winona TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 40	MP 211.16 Westbound (Winona Underpass - Structure 1084)	R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 9"		Over 14' - 16' = R	
Interstate 40	MP 211.16 (Winona TI) to MP 280.64 (Hunt Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
Interstate 40	MP 204.87 (Walnut Canyon Road TI) to MP 280.64 (Hunt Road TI)	R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 40	MP 280.64 Westbound (Hunt Road Underpass - Structure 930)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 9" 15' 10"		Over 14' - 16' = R	
Interstate 40	MP 280.64 (Hunt Road TI) to MP 294.55 Eastbound (Sun Valley Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 40	294.55 Eastbound (Sun Valley Road Underpass - Structure 931)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 10" 15' 11"		Over 14' - 16' = R	
Interstate 40	MP 294.55 Eastbound (Sun Valley Road TI) to MP 320.00 (Pinta Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = R	
Interstate 40	MP 320.00 Westbound (Pinta Road Underpass - Structure 708)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 9"		Over 14' - 16' = R	
Interstate 40	MP 320.00 (Pinta Road TI) to MP 325.92 (Navajo Road TI)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
Interstate 40	MP 325.92 Eastbound (Navajo Road Underpass - Structure 709)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	<del>15' 11"</del> <u>15' 10"</u>		Over 14' - 16' = R	
Interstate 40	MP 325.92 Westbound (Navajo Road Underpass - Structure 709)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 9"		Over 14' - 16' = R	
Interstate 40	MP 325.92 (Navajo Road TI) to MP 330.00 (Mc Carroll Carrell Road TI)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 40	MP 330.00 (Mc Carroll Carrell Road Underpass - Structure 710)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 10"		Over 14' - 16' = R	
<del>Interstate 40</del>	<del>MP 330.00 (Mc Carroll Road TI) to MP 333.41 (Chambers TI)</del>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
Interstate 40	MP 333.41 Westbound (Chambers Underpass - Structure 814)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>	<del>15' 9"</del>		<del>Over 14' - 16' = R</del>	
<del>Interstate 40</del>	<del>MP 333.41 (Chambers TI) to MP 339.46 (Sanders TI)</del>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
Interstate 40	MP 339.46 Westbound (Sanders Underpass - Structure 815)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>	<del>15' 10"</del>		<del>Over 14' - 16' = R</del>	
<del>Interstate 40</del>	<del>MP 339.46 (Sanders TI) to MP 341.81 (Ortega Road TI)</del>	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
Interstate 40	MP 330.00 (Mc Carroll Road TI) to MP 341.81 (Ortega Road TI)	<u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 40	MP 341.81 Westbound (Ortega Road Underpass - Structure 816)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 10"		Over 14' - 16' = R	
Interstate 40	MP 341.81 (Ortega Road TI) to MP 343.83 (Querino Road TI)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 40	MP 343.83 Eastbound (Querino Road Underpass - Structure 951)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 10"		Over 14' - 16' = R	
Interstate 40	MP 343.83 (Querino Road TI) to MP 348.16 (St. Anselm Road TI - Houck TI)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 40	MP 348.16 Eastbound (Houck St. Anselm Road Underpass - Structure 955)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>	15' 11"		Over 14' - 16' = R	
Interstate 40	MP 348.16 (St. Anselm Road TI - Houck TI) to MP 359.63 (New Mexico State Line)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = R	
Interstate 40 (Frontage Road)	MP 300.75 - (Little Lithodendron Bridge - South Frontage Road - Structure 2057)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = R	20,000
State Business 8	MP 0.00 (California State Line) to MP 11.50 (End of route, near I-8 east of Yuma)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>			Over 14' - 16' = F/R	
State Business 8	MP 0.00 (California State Line) to MP 0.27 (End of route, near 1st Street)	<u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	
State Business 8	MP 117.32 (Gila Bend) to MP 122.98 (Junction I-8)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Business 10	<del>MP 17.45</del> (Junction I-10 - West Main Street) to <del>MP 19.55</del> (Riggles Road - Junction I-10)	<del>R17-6-403</del>			<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 303.47</del> (West Benson) to <del>MP 303.86</del> (I-10 West Benson T/I)	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 303.37</del> (I-10 - 4th Street T/I, West of Benson) to <del>MP 303.37</del> (4th Street - Junction I-10, West of Benson)	<del>R17-6-403</del>			<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 303.86</del> <del>MP 303.37</del> Westbound (I-10 Underpass - Structures 1346 & 1347)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>	<del>15' 1"</del> <del>15' 0"</del>		<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 303.86</del> <del>MP 303.37</del> (I-10 - 4th Street T/I, West of Benson T/I) to <del>MP 305.79</del> (Junction SR 80 Underpass)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 305.79</del> Eastbound (SR 80 Underpass - Structure 262)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>	14'		<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 305.79</del> Westbound (SR 80 Underpass - Structure 262)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>	14' 2"		<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 305.79</del> (Junction SR 80 Underpass) to <del>MP 305.85</del> <del>MP 305.80</del> (Railroad Underpass)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 305.85</del> <del>MP 305.80</del> Eastbound (Railroad Underpass - Structure 264)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>	14'		<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 305.85</del> Westbound (Railroad Underpass - Structure 264)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>	14' 2"		<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 305.85</del> (Railroad Underpass) to <del>MP 306.45</del> (San Pedro River Bridge)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			<del>Over 14' - 16' = F/R</del>	
State Business 10	<del>MP 306.45</del> (San Pedro River Bridge - Structure 350)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			<del>Over 14' - 16' = F/R</del> <del>+ 2 LE</del>	Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge.  Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more. Class C permitted vehicles with a gross weight of: 250,001 or more require special analysis and approval from the ADOT Bridge Group.

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Business 10	MP 306.45 (San Pedro River Bridge) to MP 306.98 (End SB 10 at Junction I-10, Exit #306 East of Benson)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Business 10	MP 336.39 (Begin SB 10 at Exit #336 Junction I-10, West of Willcox) to MP 340.09 (Junction SR 186)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Business 10	MP 340.09 (Junction SR 186) to <del>MP 344.66 (End SB 10 at I-10 Exit #344)</del> MP 344.80 (Junction I-10, East of Willcox)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Business 10	<del>MP 362.48</del> MP 362.29 (Junction I-10, West of Bowie) to <del>MP 366.88 (End SB 10 at I-10 Exit #366)</del> MP 367.00 (Junction I-10, East of Bowie)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Business 10	<del>MP 378.69 (West Simon) to MP 382.50 (End SB 10 at I-10 Exit #382)</del> MP 378.48 (Junction I-10, West of San Simon) to MP 382.74 (Junction I-10, East of San Simon)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
<del>State Business 19</del>	<del>MP 0.00 (US/Mexico Border) to MP 1.53 (Junction SR 82)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
<del>State Business 19</del>	<del>MP 1.53 (Junction SR 82) to MP 1.66 (Railroad Underpass)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
<del>State Business 19</del>	<del>MP 1.66 (Railroad Underpass - Structure 980)</del>	<del>R17-6-406; R17-6-408</del>	<del>15' 3"</del>		<del>Over 14' - 16' = F/R</del>	
<del>State Business 19</del>	<del>MP 1.66 (Railroad Underpass) to MP 5.88 (End SB 19 at I-19)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
State Business 19	MP 0.00 (US/Mexico Border) to MP 1.52 (Junction SR 82)	R17-6-403			Over 14' - 16' = F/R	
State Business 19	MP 1.52 (SR82 & Railroad Underpass - Structure 980)	R17-6-403	15' 3"		Over 14' - 16' = F/R	
State Business 19	MP 1.52 (Junction SR82) to MP 5.88 (End SB 19 at Junction I-19)	R17-6-403			Over 14' - 16' = F/R	
State Business 40	MP 138.81 (West Seligman) to MP 142.20 (I-40 Underpass)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Business 40	MP 142.20 (I-40 Underpass - Structure 1007)	<del>R17-6-406; R17-6-408</del> R17-6-403	15' 4"		Over 14' - 16' = F/R	
State Business 40	MP 142.20 (I-40 Underpass) to MP 142.21 (Railroad Underpass)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Business 40	MP 142.21 (Railroad Underpass - Structure 1273)	<del>R17-6-406; R17-6-408</del> R17-6-403	15' 3"		Over 14' - 16' = F/R	
State Business 40	MP 142.21 (Railroad Underpass) to MP 143.04 (End SB 40 at I-40 Exit #123)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Business 40	MP 144.82 (West Ash Fork) to MP 146.33 (East Ash Fork)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Business 40	MP 146.33 (East Ash Fork) to MP 165.28 (Railroad Underpass)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>			<del>Over 14' - 16' = F/R</del> <u>Local Requirements</u>	<u>Yavapai County Jurisdiction.</u>
State Business 40	MP 165.28 (Railroad Underpass - Structure 1575)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>	14' 7" 14' 8"		<del>Over 14' - 16' = F/R</del> <u>Local Requirements</u>	<u>Coconino County Jurisdiction.</u>
State Business 40	MP 165.28 (Railroad Underpass) to MP 191.44 (Junction I-40)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>			<del>Over 14' - 16' = F/R</del> <u>Local Requirements</u>	<u>Coconino County Jurisdiction.</u>
State Business 40	MP 191.44 (Junction I-40) to MP 191.69 (I-40 Underpass)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>			<del>Over 12' - 16' = F/R</del> <u>Local Requirements</u>	Coconino County Jurisdiction,
State Business 40	MP 191.69 Northbound (I-40 East Underpass - Structure 1129)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>	15'		<del>Over 12' - 16' = F/R</del> <u>Local Requirements</u>	Coconino County Jurisdiction,
State Business 40	MP 191.69 Southbound (I-40 East Underpass - Structure 1129)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>	14' 3"		<del>Over 12' - 16' = F/R</del> <u>Local Requirements</u>	Coconino County Jurisdiction,
State Business 40	MP 191.69 Northbound (I-40 West Underpass - Structure 1128)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>	14' 3"		<del>Over 12' - 16' = F/R</del> <u>Local Requirements</u>	Coconino County Jurisdiction,
State Business 40	MP 191.69 Southbound (I-40 West Underpass - Structure 1128)	<del>R17-6-406; R17-6-408</del> <u>Local Requirements</u>	15' 8"		<del>Over 12' - 16' = F/R</del> <u>Local Requirements</u>	Coconino County Jurisdiction,
<del>State Business 40</del>	<del>MP 191.69 (I-40 Underpass) to MP 195.96 (Railroad Underpass)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 16' = F/R</del>	<del>Coconino County Jurisdiction: MP 191.69 to MP 193.16</del>
<u>State Business 40</u>	<u>MP 191.69 (I-40 Underpass) to MP 193.16 (Flagstaff City Limit)</u>	<u>Local Requirements</u>			<u>Local Requirements</u>	<u>Coconino County Jurisdiction.</u>
<u>State Business 40</u>	<u>MP 193.16 (Flagstaff City Limit) to MP 195.96 (Railroad Underpass)</u>	<u>R17-6-403</u>			<u>Over 12' - 16' = F/R</u>	
State Business 40	MP 195.96 (Railroad Underpass - Structure 529)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	13' 9"		Over 12' - 16' = F/R	
State Business 40	MP 195.96 (Railroad Underpass) to MP 196.14 (Junction US 180)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
<del>State Business 40</del>	<del>MP 196.14 (Junction US 180) to MP 200.32 (Junction US 89)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 16' = F/R</del>	<del>City of Flagstaff Jurisdiction: MP 199.91 to MP 200.32</del>
<del>State Business 40</del>	<del>MP 200.32 (Junction US 89) to MP 200.99 (Junction I-40)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 16' = F/R</del>	<del>City of Flagstaff Jurisdiction</del>
<u>State Business 40</u>	<u>MP 196.14 (Junction US 180) to MP 199.91 (Fanning Drive TI)</u>	<u>R17-6-403</u>			<u>Over 12' - 16' = F/R</u>	
<u>State Business 40</u>	<u>MP 199.91 (Fanning Drive TI) to MP 200.99 (Junction I-40)</u>	<u>Local Requirements</u>			<u>Local Requirements</u>	<u>City of Flagstaff Jurisdiction.</u>
State Business 40	MP 274.48 (West Joseph City) to MP 277.33 (East Joseph City)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Business 40	MP 285.00 (West of Holbrook) to MP 286.68 (Junction SR 77)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Business 40	MP 286.68 (Junction SR 77) to MP 287.39 (Holbrook Middle I-40 Underpass)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Business 40	287.39 (Holbrook Middle I-40 Underpass) to MP 289.80 (I-40 Underpass, East of Holbrook)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Business 40	MP 289.80 (East Holbrook, I-40 Underpass, East of Holbrook - Structure 1369)	<del>R17-6-406; R17-6-408</del> R17-6-403	14' 8"		Over 14' - 16' = F/R	
State Business 40	289.80 (I-40 Underpass, East of Holbrook) to MP 290.06 (I-40 TL, East of Holbrook)	R17-6-403			Over 14' - 16' = F/R	
State Business 79	MP 132.17 (Junction SR 79) to MP 134.03 (Junction SR 79)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Route 24	MP 0.00 (Junction SR 202 Loop) to MP 1.00 (Ellsworth Road)	R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = R	
State Route 40 Spur	MP 0.03 (Beginning of route, West of Winslow) to MP 1.03 (End of route)	R17-6-403			Over 14' - 16' = F/R	
State Route 51	MP 0.00 (Junctions I-10 and SR Loop 202) to MP 13.62 (Bell Road)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
State Route 51	MP 13.62 Northbound (Bell Road Underpass - Structure 2477)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409	15' 7"		Over 14' - 16' = R	
State Route 51	MP 13.62 Southbound (Bell Road Underpass - Structure 2477)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409	14' 10"		Over 14' - 16' = R	
State Route 51	MP 13.62 (Bell Road) to MP 15.90 (Junction SR Loop 101)	R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409			Over 14' - 16' = R	
State Route 51	MP 0.00 Northbound McDowell Road Off Ramp (I-10 Overpass - Structure 2126)	R17-6-402; R17-6-403; R17-6-404	15' 2"		Over 14' - 16' = R	
State Route 51	MP 0.00 (Junction I-10 and SR 202 Loop) to MP 15.90 (Junction SR 101 Loop)	R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = R	
State Route 61	MP 352.88 (Junction US 60) to MP 381.86 (Junction US 180)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 16' = F/R	
State Route 61	MP 416.49 (Junction US 191) to MP 430.26 (New Mexico State Line)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 10' - 16' = F/R	
State Route 64	MP 185.46 (Junction I-40 in Williams) to MP 237.10 (Grand Canyon National Park)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 16' = F/R	
State Route 64	MP 267.10 (Grand Canyon National Park) to MP 295.83 (Junction US 89)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 16' = F/R	
State Route 66	MP 56.70 (Junction I-40) to MP 123.10 (Route end)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Route 67	MP 579.36 (Junction US 89A) to MP 610.26 (North Rim)	<del>R17-6-406; R17-6-408;</del> R17-6-403; Seasonal Road Closure			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	20,000 Legal weight only, as provided under R17-6-102, Table 1. Over 80,000 requires class C permit.
State Route 68	MP 1.10 (Junction SR 95) to MP 27.10 (Junction US 93)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = F/R	
State Route 69	MP 262.20 (Junction I-17) to MP 296.00 (Junction SR 89)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 71	MP 86.10 (Junction US 60) to MP 102.90 (SR 71 Overpass)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 16' = F/R	
State Route 71	MP 102.90 (SR 71 Overpass - Structure 842)	<del>R17-6-406; R17-6-408</del> R17-6-403	14' 10"		Over 12' - 16' = F/R	
State Route 71	MP 102.90 (SR 71 Overpass) to MP 109.70 (Junction SR 89)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 16' = F/R	
State Route 72	MP 13.10 (Junction SR 95) to MP 49.60 (Junction US 60)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 73	MP 310.40 (Junction US 60) to MP 334.72 (White River)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
<del>State Route 73</del>	<del>MP 334.72 (White River) to MP 357.72 (Junction SR 260)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
State Route 73	MP 334.72 (White River) to MP 350.70 (Coal Mine Canyon)	R17-6-403			Over 14' - 16' = F/R	
State Route 73	MP 350.70 (Coal Mine Canyon Bridge - Structure 982)	R17-6-403			Over 14' - 16' = F/R	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. Class C permitted vehicles with a gross weight of: 250,001 or more require special analysis and approval from the ADOT Bridge Group.
State Route 73	MP 350.70 (Coal Mine Canyon) to MP 357.72 (Junction SR 260)	R17-6-403			Over 14' - 16' = F/R	
State Route 74	MP 0.00 (Junction US 60) to MP 30.84 (Junction I-17)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Route 75	MP 378.92 (Junction US 70) to MP 398.43 (Junction US 191)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
<del>State Route 77</del>	<del>MP 68.05 (Junction I-10 in Tucson) to MP 74.84 (Ina Road)</del>	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = F/R</del>	
State Route 77	MP 68.05 (Junction I-10 at W. Miracle Mile) to MP 69.54 (N. Oracle Road)	R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = F/R	
State Route 77	MP 69.54 (N. Oracle Road) to MP 74.84 (Ina Road)	R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = F/R	
State Route 77	MP 74.84 (Ina Road) to MP 79.48 81.82 (Junction SR 989 at Tangerine Road)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = F/R	
State Route 77	MP 79.48 81.82 (Junction SR 989 at Tangerine Road) to MP 91.13 (Junction SR 79)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 77	MP 91.13 (Junction SR 79) to MP 113.60 (Mammoth Town Limit)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 77	MP 113.60 (Mammoth Town Limit) to MP 134.80 (Junction SR 177)	<del>R17-6-406; R17-6-407; R17-6-408</del> <u>R17-6-403</u> ; <del>R17-6-407</del>		80'+ <del>unarticulated</del> <del>non-articulate</del> d requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 77	MP 134.80 (Junction SR 177) to MP 170.90 (Junction US 70)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ <del>unarticulated</del> <del>non-articulate</del> d requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 77	MP 342.20 (Junction US 60, Show Low) to MP 361.05 (Junction SR 277)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 77	MP 361.05 (Junction SR 277) to MP 386.20 (Junction SR 377)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 77	MP 386.20 (Junction SR 377) to MP 387.81 (Junction US 180)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 77	MP 387.81 (Junction US 180) to MP 388.67 (Junction SB 40, Holbrook)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 77	MP 395.05 (1-40 east East of Holbrook) to MP 408.93 (End of State Route at Navajo Nation boundary)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 78	MP 154.55 (Junctions SR 75 and US 191) to MP 174.73 (New Mexico State Line)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 79	MP 91.14 (Junction SR 77) to MP 132.17 (Junction SB 79)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
State Route 79	MP 134.03 (Junction SB 79) to MP 150.28 (Junction US 60)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 80	MP 293.27 (Junction SB 10 in Benson) to MP 339.06 (Mule Pass Tunnel)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 80	MP 339.06 (Mule Pass Tunnel - Structure 538)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	14'		Over 14' - 16' = F/R	
State Route 80	MP 339.06 (Mule Pass Tunnel) to MP 343.01 (Lowell Underpass)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 80	MP 343.01 (Lowell Underpass - Structure 269)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	14' 7"		Over 14' - 16' = F/R	
State Route 80	MP 343.01 (Lowell Underpass) to MP 348.15 ( <del>Mulepass</del> <u>Mule Pass</u> - Lowell Arch)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 80	MP 348.15 ( <del>Mulepass</del> <u>Mule Pass</u> - Lowell Arch - Structure 130)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	Legal weight <u>only</u> , as provided under R17-6-102, Table 1.
State Route 80	MP 348.15 ( <del>Mulepass</del> <u>Mule Pass</u> - Lowell Arch) to MP 352.38 (Glance Creek Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 80	MP 352.38 (Glance Creek Bridge - Structure 237)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	Legal weight <u>only</u> , as provided under R17-6-102, Table 1.
State Route 80	MP 352.38 (Glance Creek Bridge) to MP 364.66 (Douglas)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 80	MP 364.66 (Douglas) to MP 366.12 (Junction US 191)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 80	MP 366.12 (Junction US 191) to MP 415.39 (New Mexico State Line)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 82	MP 0.00 (Junction SB 19) to MP 32.36 (Junction SR 83)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 3 LE	
State Route 82	MP 32.36 (Junction SR 83) to MP 51.59 (Junction SR 90)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 3 LE	
<del>State Route 82</del>	<del>MP 51.59 (Junction SR 90) to MP 67.57 (Junction SR 80)</del>	<del>R17-6-406</del> ; <del>R17-6-408</del>			<del>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</del>	
<u>State Route 82</u>	<u>MP 51.59 (Junction SR 90) to MP 61.20 (San Pedro River)</u>	<u>R17-6-403</u>			<u>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</u>	
<u>State Route 82</u>	<u>MP 61.20 (San Pedro River Bridge - Structure 403)</u>	<u>R17-6-403</u>			<u>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</u>	<u>Class A permitted vehicles with a gross weight of 150,000 or less - no additional restrictions; drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge.</u> <u>Class C permitted vehicles with a gross weight of 250,001 or more require special analysis and approval from the ADOT Bridge Group.</u>
<u>State Route 82</u>	<u>MP 61.20 (San Pedro River) to MP 67.57 (Junction SR 80)</u>	<u>R17-6-403</u>			<u>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</u>	
State Route 83	MP 3.19 (Parker Canyon Lake) to MP 31.63 (Junction SR 82)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 83	MP 31.63 (Junction SR 82) to MP 58.00 (Junction I-10)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 84	MP 155.13 (Junction I-8) to MP 177.60 (Railroad Underpass)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 84	MP 177.66 Eastbound (Railroad Underpass - Structure 143)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>	13' 3"		Over 14' - 16' = F/R	
State Route 84	MP 177.66 Westbound (Railroad-Underpass - Structure 1062)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>	14'		Over 14' - 16' = F/R	
State Route 84	MP 177.60 (Railroad Underpass) to MP 177.97 (Junctions SR 387 and SR 287)	<del>R17-6-406</del> ; <del>R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 85	MP 0.00 (Junction SB 8) to MP 0.35 (I-8 Underpass)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 0.35 (I-8 Underpass - Structure 702)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	14' 5"		Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 0.35 (I-8 Underpass) to MP 0.37 (Railroad Underpass)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 0.37 (Railroad Underpass - Structure 734)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	14' 5"		Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 0.37 (Railroad Underpass) to MP 0.60 (I-8 Overpass)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 0.60 (I-8 Overpass WB/EB - Structures 1557 & 1558)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	14' 11"		Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 0.60 (I-8 Overpass) to MP 39.70 (Town of Ajo)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 39.70 (Town of Ajo) to MP 80.69 (US/Mexico Border)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 85	MP 120.31 (Junction SB 8) to MP 154.48 (Junction I-10)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	
State Route 86	MP 53.00 (Junction SR 85) to MP 150.42 (Junction SR 286)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 86	MP 150.42 (Junction SR 286) to MP 164.04 (Camino Verde Road)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 86	MP 164.04 (Camino Verde Road) to MP 171.44 (Junction I-19)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403; R17-6-404</u>			Over 14' - 16' = F/R	
State Route 87	MP 115.20 (Junction I-10) to MP 115.20 (I-10 Overpass) MP 115.77 (Junction SR 84 at Milligan Road)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 87	MP 115.20 Northbound (I-10 Overpass)	<del>R17-6-406; R17-6-408</del>	15' 3"		Over 14' - 16' = F/R	
State Route 87	MP 115.20 Southbound (I-10 Overpass)	<del>R17-6-406; R17-6-408</del>	15' 2"		Over 14' - 16' = F/R	
State Route 87	MP 115.20 (Junction I-10) to MP 162.67 (Junction Ocotillo Road in Chandler)	<del>R17-6-406; R17-6-408</del>			Over 14' - 16' = F/R	
State Route 87	MP 172.22 (Junction US 69) to MP 176.74 (Junction SR 202 Overpass)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>			Over 14' - 16' = F/R	
State Route 87	MP 115.77 (Junction SR 84 at Milligan Road) to MP 125.81 (Junction SR 287)	<u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 87	MP 125.81 (Junction SR 287) to MP 141.47 (Junction SR 387)	<u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 87	MP 141.47 (Junction SR 387) to MP 146.04 (Junction SR 187)	<u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 87	MP 146.04 (Junction SR 187) to MP 159.62 (Hunt Highway Junction SR 587)	<u>R17-6-403</u>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 87	MP 159.62 (Hunt Highway, Junction SR 587) to MP 162.67 (Ocotillo Road, Chandler)	R17-6-403			Over 14' - 16' = F/R	
State Route 87	MP 162.67 (Ocotillo Road, Chandler) to MP 165.36 (Junction SR 202 Loop)	Local Requirements			Local Requirements	City of Chandler Jurisdiction.
State Route 87	MP 165.36 (Junction SR 202 Loop) to MP 170.20 (Western Canal Crossing)	Local Requirements			Local Requirements	City of Chandler Jurisdiction.
State Route 87	MP 170.20 (Western Canal Crossing) to MP 172.50 (Junction US 60)	R17-6-402; R17-6-403			Over 14' - 16' = F/R	
State Route 87	MP 172.50 (Junction US 60) to MP 176.74 (Junction SR 202 Loop)	Local Requirements			Local Requirements	City of Mesa Jurisdiction.
State Route 87	MP 176.74 (Junction SR 202 Loop Overpass - Structure 2491)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403	15' 8"		Over 14' - 16' = F/R	
State Route 87	MP 176.74 (Junction SR 202 Overpass Loop) to MP 252.50 (Junction SR 260, Payson)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = F/R	
State Route 87	MP 252.50 (Junction SR 260, Payson) to MP 278.80 (Junction SR 260)	R17-6-406; R17-6-407; R17-6-408 R17-6-402; R17-6-407		40'+ requires F/R + 2 LE	Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 87	MP 278.80 (Junction SR 260) to MP 340.94 (Junction SR 99)	R17-6-406; R17-6-407; R17-6-408 R17-6-403; R17-6-407			Over 12' - 14' = F/R Over 14' - 16' = F/R + 3 LE	
State Route 87	MP 340.94 (Junction SR 99) to MP 342.10 (Railroad Underpass, Winslow)	R17-6-406; R17-6-407; R17-6-408 R17-6-403; R17-6-407			Over 12' - 14' = F/R Over 14' - 16' = F/R + 3 LE	
State Route 87	MP 342.10 (Railroad Underpass, Winslow - Structure 194)	R17-6-406; R17-6-407; R17-6-408 R17-6-403; R17-6-407	14' 6"		Over 12' - 14' = F/R Over 14' - 16' = F/R + 3 LE	
State Route 87	MP 342.10 (Railroad Underpass, Winslow) to MP 342.23 (Junction SB 40, 3rd Street in Winslow)	R17-6-406; R17-6-407; R17-6-408 R17-6-403; R17-6-407			Over 12' - 14' = F/R Over 14' - 16' = F/R + 3 LE	
State Route 87	MP 343.56 (Junction SB 40, Transcon Lane in Winslow) to MP 345.52 (Junction I-40)	R17-6-406; R17-6-408 R17-6-403			Over 12' - 14' = F/R Over 14' - 16' = F/R	
State Route 87	MP 345.52 (Junction I-40) to MP 406.04 (Junction SR 264)	R17-6-406; R17-6-408 R17-6-403			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 88	MP 193.85 (Junction US 60) to MP 202.84 (Apache Trail Marker)	R17-6-406; R17-6-408 R17-6-403			Over 8' requires class C permit Over 14' - 16' = F/R	
State Route 88	MP 202.84 (Apache Trail Marker) to MP 209.62 (First Water Creek Bridge)	R17-6-406; R17-6-408 R17-6-402		Over 40' requires class C permit	Over 8' 6" requires class C permit	
State Route 88	MP 209.62 (First Water Creek Bridge - Structure 26)	R17-6-406; R17-6-408 R17-6-403	14' 3" 14' 0"	Over 40' requires class C permit	Over 8' 6" requires class C permit	Legal weight only, as provided under R17-6-102, Table 1.
State Route 88	MP 209.62 (First Water Creek Bridge) to MP 211.05 (Boulder Canyon Bridge)	R17-6-406; R17-6-408 R17-6-403		Over 40' requires class C permit	Over 8' 6" requires class C permit	
State Route 88	MP 211.05 (Boulder Canyon Bridge - Structure 193)	R17-6-406; R17-6-408 R17-6-403	14' 3" 14'	Over 40' requires class C permit	Over 8' 6" requires class C permit	Legal weight only, as provided under R17-6-102, Table 1.

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 88	MP 211.05 (Boulder Canyon Bridge) to MP 220.20 (End of pavement)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		Over 40' requires class C permit	Over 8' 6" requires class C permit	
State Route 88	MP 220.20 (End of pavement) to MP 222.00 (Fish Creek Hill)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		No trucks over 40'	Over 8' 6" requires class C permit	Over 20,000 requires class C permit.
State Route 88	MP 222.00 (Fish Creek Hill) to MP 223.50 (Fish Creek Bridge)	<del>R17-6-406; R17-6-408;</del> <u>R17-6-403</u> ; One lane road		No trucks over 40'	Over 8' 6" requires class C permit	Over 20,000 requires class C permit.
State Route 88	MP 223.50 (Fish Creek Bridge - Structure 27)	<del>R17-6-406; R17-6-408;</del> <u>R17-6-403</u> ; One lane bridge		No trucks over 40'	Over 8' 6" requires class C permit	<u>Legal weight only, as provided under R17-6-102, Table 1.</u> Over 20,000 requires class C permit.
State Route 88	MP 223.50 (Fish Creek Bridge) to MP 224.40 (End of one lane road)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		No trucks over 40'	Over 8' 6" requires class C permit	Over 20,000 requires class C permit.
State Route 88	MP 224.40 (End of one lane road) to MP 224.60 (Lewis and Pranty Creek Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		No trucks over 40'	Over 8' 6" requires class C permit	Over 20,000 requires class C permit.
State Route 88	MP 224.60 (Lewis and Pranty Creek Bridge - Structure 28)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		No trucks over 40'	Over 8' 6" requires class C permit	<u>Legal weight only, as provided under R17-6-102, Table 1.</u> Over 20,000 requires class C permit.
State Route 88	MP 224.60 (Lewis and Pranty Creek Bridge) to MP 225.55 (Dry Wash Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		No trucks over 40'	Over 8' 6" requires class C permit	Over 20,000 requires class C permit.
State Route 88	MP 225.55 (Dry Wash Bridge - Structure 15)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		No trucks over 40'	Over 8' 6" requires class C permit	<u>Legal weight only, as provided under R17-6-102, Table 1.</u> Over 20,000 requires class C permit.
State Route 88	MP 225.55 (Dry Wash Bridge) to MP 226.60 (ADOT Maintenance Yard)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		No trucks over 40'	Over 8' 6" requires class C permit	Over 20,000 requires class C permit.
State Route 88	MP 226.60 (ADOT Maintenance Yard) to MP 233.50 (Pine Creek Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		Over 40' requires class C permit	Over 8' 6" requires class C permit	
State Route 88	MP 233.50 (Pine Creek Bridge - Structure 31)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		Over 40' requires class C permit	Over 8' 6" requires class C permit	<u>Legal weight only, as provided under R17-6-102, Table 1.</u>
State Route 88	MP 233.50 (Pine Creek Bridge) to MP 240.57 (Begin Pavement)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		Over 40' requires class C permit	Over 8' 6" requires class C permit	
State Route 88	MP 240.57 (Begin Pavement) to MP 242.40 (Junction SR 188)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		Over 40' requires class C permit	Over 8' 6" requires class C permit	
<del>State Route 89</del>	<del>MP 258.20 (Junction US 93) to MP 295.00 (Wilhoit)</del>	<del>R17-6-406; R17-6-408</del>			Over 12' - 16' = F/R	
<del>State Route 89</del>	<del>MP 258.20 (Junction US 93) to MP 271.91 (Divided Highway)</del>	<del>R17-6-403</del>			Over 12' - 16' = F/R	
<del>State Route 89</del>	<del>MP 271.91 Northbound (Begin Divided Highway) to MP 275.62 (End Divided Highway)</del>	<del>R17-6-403</del>			Over 12' - 16' = F/R	
State Route 89	MP 271.91 Southbound (End Divided Highway) to MP 275.62 (Begin Divided Highway)	R17-6-403		Over 40' requires class C permit	Over 12' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
<del>State Route 89</del>	<del>MP 275.62 (End Divided Highway) to MP 295.00 (Wilhoit Community Limit)</del>	<del>R17-6-403</del>			<del>Over 12' - 16' = F/R</del>	
State Route 89	MP 295.00 (Wilhoit Community Limit) to MP 309.00 (Prescott City Limits Limit)	<del>R17-6-406; R17-6-408</del> R17-6-403		Over 40' requires class C permit	Over 8' requires class C permit	
State Route 89	MP 309.00 (Prescott City Limits Limit) to MP 309.45 (Granite Creek Bridge #2)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 16' = F/R + 2 LE	
State Route 89	MP 309.45 (Granite Creek Bridge #2 - Structure 106)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 16' = F/R + 2 LE	Legal weight <u>only</u> , as provided under R17-6-102, Table 1.
State Route 89	MP 309.45 (Granite Creek Bridge #2) to MP 320.00 (Willow Creek Road)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	City of Prescott Jurisdiction: MP 310.26 to MP 319.00 & MP 312.57 to <del>MP 312.95</del> <u>MP 313.99</u> .
<del>State Route 89</del>	<del>MP 320.00 (Willow Creek Road) to MP 345.70 (Hell Canyon Bridge)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</del>	
<del>State Route 89</del>	<del>MP 345.70 (Hell Canyon Bridge - Structure 483)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</del>	<del>Legal weight as provided under R17-6-102, Table 1.</del>
<del>State Route 89</del>	<del>345.70 (Hell Canyon Bridge) to MP 363.00 (Junction I-40)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</del>	
<del>State Route 89</del>	<del>MP 320.00 (Willow Creek Road) to MP 363.00 (Junction I-40)</del>	<del>R17-6-403</del>			<del>Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE</del>	
State Route 89A	MP 317.80 (Junction SR 89) to <del>MP 331.00</del> MP 330.10 (Old Fain Road)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Route 89A	<del>MP 331.00</del> <u>MP 330.10</u> (Old Fain Road) to MP 348.00 (Clarkdale)	<del>R17-6-406; R17-6-408</del> R17-6-403		Over 50' requires class C permit	Over 8' requires class C permit	
State Route 89A	MP 348.00 (Clarkdale) to MP 355.21 (Junction SR 260)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Route 89A	MP 355.21 (Junction SR 260) to MP 374.14 (Junction SR 179)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
State Route 89A	MP 374.14 (Junction SR 179) to MP 375.66 (Midgley/Wilson Canyon Bridge)	<del>R17-6-406; R17-6-408</del> R17-6-403		Over 50' requires class C permit	Over 10' - 12' = F/R Over 12' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 89A	MP 375.66 (Midgley/Wilson Canyon Bridge - Structure 232)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		Over 50' requires class C permit	Over 10' - 12' = F/R Over 12' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more. <u>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. 150,001 or more requires a Class C permit with special analysis and approval from the ADOT Bridge Group.</u>
<del>State Route 89A</del>	<del>MP 375.66 (Midgley/Wilson Canyon Bridge) to MP 398.96 (JW Powell Boulevard/I-17)</del>	<del>R17-6-406; R17-6-408</del>		<del>Over 50'</del> <del>requires class</del> <del>C permit</del>	<del>Over 10' - 12' = F/R</del> <del>Over 12' - 16' = F/R</del> <del>+ 2 LE</del>	
State Route 89A	MP 375.66 (Midgley/Wilson Canyon Bridge) to MP 390.18 (Oak Creek Vista)	<u>R17-6-403</u>		Over 50' requires class C permit	Over 10' - 12' = F/R Over 12' - 16' = F/R + 2 LE	
State Route 89A	MP 390.18 (Oak Creek Vista) to MP 398.96 (JW Powell Boulevard/I-17)	<u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 89A Spur	MP 324.47 (Junction SR 89A) to MP 331.63 (Junction SR 69)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 90	MP 289.59 (Junction I-10) to MP 336.40 (Junction SR 80)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> <del>R17-6-402; R17-6-403</del>			Over 14' - 16' = F/R	
State Route 90 Spur	MP 316.88 (Junction SR 90) to MP 317.29 (Buffalo Soldier Trail)	<u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	
State Route 92	MP 321.00 (Junction SR 90) to MP 340.56 (San Pedro River bridge)	<del>R17-6-406; R17-6-408</del>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 92	MP 340.56 (San Pedro River bridge - Structure 449)	R17-6-406; R17-6-408			Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge; Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more.
State Route 92	MP 340.56 (San Pedro River bridge) to MP 355.00 (Junction SR 80)	R17-6-406; R17-6-408			Over 14' - 16' = F/R	
State Route 92	MP 321.00 (Junction SR 90) to MP 355.00 (Junction SR 80)	R17-6-403			Over 14' - 16' = F/R	
State Route 95	MP 109.04 (at SB 10 in Quartzsite) to MP 131.68 (Junction SR 72)	R17-6-406; R17-6-408			Over 14' - 16' = F/R	
State Route 95	MP 109.10 (Main Street in Quartzsite) to MP 131.68 (Junction SR 72)	R17-6-403			Over 14' - 16' = F/R	
State Route 95	MP 131.68 (Junction SR 72) to MP 143.93 (Junction SR 95 Spur)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R Over 12' - 16' = F/R	
State Route 95	MP 143.93 (Junction SR 95 Spur) to MP 144.75 (Airport Road in Parker)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R	
State Route 95	MP 144.75 (Airport Road in Parker) to MP 187.51 (Chenoweth Chenoweth Drive in Lake Havasu City)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R	
State Route 95	MP 187.51 (Chenoweth Chenoweth Drive in Lake Havasu City) to MP 202.06 (Junction I-40)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R	
State Route 95	MP 226.08 (California State Line near Needles) to MP 227.32 (Courtwright Road)	R17-6-406; R17-6-408 R17-6-403			Over 12' - 16' = F/R	
State Route 95	MP 227.32 (Courtwright Road) to MP 249.80 (Junction SR 68)	R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403			Over 14' - 16' = F/R	
State Route 95A	MP 143.93 (Junction SR 95) to MP 144.85 (California State Line near Parker)	R17-6-402; R17-6-403			Over 14' - 16' = F/R	
State Route 96	MP 0.00 (Bagdad, Town Limit) to MP 4.01 (Junction SR 97)	R17-6-406; R17-6-408 R17-6-403			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 96	MP 4.01 (Junction SR 97) to MP 10.80 (Santa Maria River Bridge)	R17-6-406; R17-6-408 R17-6-403			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 96	MP 10.80 (Santa Maria River Bridge - Structure 225)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more. <u>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. 150,001 or more requires a Class C permit with special analysis and approval from the ADOT Bridge Group.</u>
State Route 96	MP 10.80 (Santa Maria River Bridge) to MP 21.92 (Town of Hillside Town Limit)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 97	MP 155.52 (Junction US 93) to MP 166.97 (Junction SR 96)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
<del>State Route 98</del>	<del>MP 294.67 (Junction US 89) to MP 361.39 (Electrical wire near Junction US 160)</del>	<del>R17-6-406; R17-6-408</del>			Over 14' - 16' = F/R	
<del>State Route 98</del>	<del>MP 361.39 (Electrical wire near Junction US 160)</del>	<del>R17-6-406; R17-6-408</del>	16'-6"		Over 14' - 16' = F/R	
<del>State Route 98</del>	<del>MP 361.39 (Electrical wire near Junction US 160) to MP 361.56 (Junction US 160)</del>	<del>R17-6-406; R17-6-408</del>			Over 14' - 16' = F/R	
<del>State Route 98</del>	<del>MP 294.67 (Junction US 89) to MP 361.56 (Junction US 160)</del>	<del>R17-6-403</del>			Over 14' - 16' = F/R	
State Route 99	MP 27.5 (Beginning of route <del>south</del> South of Winslow) to MP 38.19 (Clear Creek Arch Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
State Route 99	MP 38.19 (Clear Creek Arch Bridge - Structure 1038)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	Legal weight <u>only</u> , as provided under R17-6-102, Table 1.
State Route 99	MP 38.19 (Clear Creek Arch Bridge) to MP 38.90 (Jacks Canyon Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 99	MP 38.90 (Jacks Canyon Bridge - Structure 1036)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	Legal weight <u>only</u> , as provided under R17-6-102, Table 1.
State Route 99	MP 38.90 (Jacks Canyon Bridge) to MP 42.65 (Junction SR 87)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
State Route 99	MP 52.69 (Junction I-40) to MP 72.16 (Route end at BIA 15)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE	
<del>State Route 101</del>	<del>MP 1.21 (Junction I-10, near 99th Avenue) to MP 61.33 (Junction SR 202)</del>	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<del>State Route 101 Loop</del>	<del>MP 1.21 (Junction I-10, near 99th Avenue) to MP 17.24 (75th Avenue TI)</del>	<del>R17-6-402; R17-6-403; R17-6-404</del>			<del>Over 14' - 16' = R</del>	
State Route 101 Loop	MP 17.24 Westbound (75th Avenue Overpass) - Structure 2051	<del>R17-6-402; R17-6-403; R17-6-404</del>	15' 4"		Over 14' - 16' = R	
State Route 101 Loop	MP 17.24 (75th Avenue TI) to MP 61.33 (Junction SR 202 Loop)	<del>R17-6-402; R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
State Route 143	MP 0.00 (Junction I-10) to MP 3.81 (McDowell Road)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409 R17-6-402; R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
State Route 169	MP 0.00 (Junction SR 69) to MP 15.10 (Junction I-17)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 177	MP 136.31 (Junction SR 77) to MP 167.64 (Junction US 60)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
<del>State Route 179</del>	<del>MP 298.95 (Junction I-17) to MP 298.95 (Sedona Road Overpass)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 16' = F/R</del>	
State Route 179	MP 298.95 (Sedona Road Junction I-17 Overpass - Structures 633 & 1061)	<del>R17-6-406; R17-6-408</del> <u>R17-6-402</u>	14' 2"		Over 12' - 16' = F/R	
State Route 179	MP 298.95 (Sedona Road Junction I-17 Overpass) to MP 313.44 (Junction SR 89A)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
State Route 180A	MP 343.10 (Junction US 180) to MP 353.00 (Junction SR 61)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' requires class C permit	
State Route 181	MP 38.25 (Junction US 191) to MP 61.08 (Junction SR 186)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 181	MP 61.08 (Junction SR 186) to MP 65.04 (Chiricahua National Monument)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
<del>State Route 186</del>	<del>MP 326.19 (Junction I-10 in Willcox) to MP 359.42 (Junction SR 181)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE</del>	
State Route 186	MP 326.19 (Junction I-10 in Willcox) to MP 327.49 (Junction SB 10 in Willcox)	<u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R	
State Route 186	MP 328.20 (Junction SB 10 in Willcox) to MP 359.42 (Junction SR 181)	<u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 187	MP 186.77 (Junction SR 387) to MP 192.19 (Junction SR 87)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 188	MP 214.92 (Junction US 60) to MP 229.58 (Junction SR 288)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 188	MP 229.58 (Junction SR 288) to MP 244.15 (Junction SR 88)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 188	MP 244.15 (Junction SR 88) to MP 244.28 (Roosevelt Lake Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 188	MP 244.28 (Roosevelt Lake Bridge - Structure 2028)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R <del>+ 2 LE</del>	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. <del>Class C permitted vehicles with a gross weight of over 250,000 require special analysis and approval from the ADOT Bridge Group.</del> <u>Class C permitted vehicles with a gross weight of: 250,001 or more require special analysis and approval from the ADOT Bridge Group.</u>
State Route 188	MP 244.28 (Roosevelt Lake Bridge) to MP 250.00 (Rock Creek)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 188	MP 250.00 (Rock Creek) to MP 260.00 (South of Punkin Center)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 188	MP 260.00 (South of Punkin Center) to MP 276.78 (Junction SR 87)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 189	MP 0.00 (US/Mexico Border) to MP 2.88 (Junction I-19)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 189	MP 2.88 (Junction I-19) to MP 3.75 (Junction SB 19)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
<del>State Route 195</del>	<del>MP 2.50 (Begin route at Avenue E 1/2) to MP 24.39 (Junction I-8)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
<u>State Route 195</u>	<u>MP 5.50 (Begin route at Avenue E) to MP 27.30 (Union Pacific Railroad Underpass)</u>	<u>R17-6-403</u>			<u>Over 14' - 16' = F/R</u>	
<u>State Route 195</u>	<u>MP 27.30 (Union Pacific Railroad Underpass - Structure 2964)</u>	<u>R17-6-403</u>	<u>15' 4"</u>		<u>Over 14' - 16' = F/R</u>	
<u>State Route 195</u>	<u>MP 27.30 (Union Pacific Railroad Underpass) to MP 27.44 (Junction I-8 Eastbound Ramp)</u>	<u>R17-6-403</u>			<u>Over 14' - 16' = F/R</u>	
<u>State Route 195</u>	<u>MP 27.44 (I-8 Eastbound Underpass - Structure 1277)</u>	<u>R17-6-403</u>	<u>15' 4"</u>		<u>Over 14' - 16' = F/R</u>	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 195	<u>MP 27.47 (I-8 Westbound Underpass - Structure 1278)</u>	<u>R17-6-403</u>	15' 4"		<u>Over 14' - 16' = F/R</u>	
State Route 195	<u>MP 27.47 (I-8 Westbound Underpass) to MP 27.61 (Junction I-8 Westbound Ramp)</u>	<u>R17-6-403</u>			<u>Over 14' - 16' = F/R</u>	
State Route 202 Loop	MP 0.00 ( <del>Junctions Junction I-10 and SR 51</del> ) to MP 9.80 (Junction SR 101 Loop)	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403; R17-6-404</u>			Over 14' - 16' = R	
State Route 202 Loop	MP 9.80 (Junction SR 101 Loop) to <del>MP 57.24</del> <u>MP 55.50 (Junction I-10, Santan TI)</u>	<del>R17-6-404; R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403; R17-6-404</u>			Over 14' - 16' = R	
State Route 202 Loop	<u>MP 55.50 (Junction I-10, Santan TI) to MP 77.80 (Junction I-10, West Phoenix TI)</u>	<u>R17-6-402; R17-6-403; R17-6-404</u>			<u>Over 14' - 16' = R</u>	
State Route 202 Spur	<u>MP 5.15 (Junction SR 202 Loop) to MP 6.28 (Sky Harbor Blvd TI)</u>	<u>R17-6-402; R17-6-403; R17-6-404</u>			<u>Over 14' - 16' = R</u>	
State Route 210	<u>MP 1.00 (Broadway Blvd) to MP 4.78 (Richey Blvd)</u>	<u>R17-6-402; R17-6-403; R17-6-404</u>			<u>Over 14' - 16' = F/R</u>	
State Route 238	MP 24.00 to MP 44.25 (Junction SR 347)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 260	MP 206.40 (Junction SR 89A) to MP 218.60 (Junction I-17)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 260	MP 218.60 (Junction I-17) to MP 252.00 (Junction SR 87)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 260	MP 252.00 (Junction SR 87 in Payson) to MP 256.00 (Star Valley)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	
State Route 260	MP 256.00 (Star Valley) to MP 305.67 (Junction SR 277)	<del>R17-6-406; R17-6-407; R17-6-408</del> <u>R17-6-403; R17-6-407</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 260	MP 305.67 (Junction SR 277) to MP 340.07 (Junction US 60 in Show Low)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 260	MP 341.68 (Junction US 60 in East Show Low) to MP 357.72 (Junction SR 73)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 260	MP 357.72 (Junction SR 73) to MP 368.60 (Junction SR 473, Hawley Lake Road)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ requires F/R	Over 12' - 16' = F/R	
State Route 260	MP 368.60 (Junction SR 473, Hawley Lake Road) to MP 377.44 (Junction SR 273)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ requires F/R	Over 12' - 16' = F/R	
State Route 260	MP 377.44 (Junction SR 273) to MP 385.56 (Junction SR 373, Greer)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ requires F/R	Over 12' - 16' = F/R	
State Route 260	MP 385.56 (Junction SR 373, Greer) to MP 393.01 (Junction SR 261, Big Lake)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ requires F/R	Over 12' - 16' = F/R	
State Route 260	MP 393.01 (Junction SR 261, Big Lake) to MP 398.67 (Junction US 180)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ requires F/R	Over 12' - 16' = F/R	
State Route 261	MP 394.37 (Junction SR 273) to MP 412.50 (Junction SR 260)	<del>R17-6-406; R17-6-408;</del> <u>R17-6-403; Seasonal Road Closure</u>			Over 8' 6" requires class C permit	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 264	MP 321.97 (Junction US 160) to MP 384.23 (Junction SR 87)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 264	MP 384.23 (Junction SR 87) to MP 441.02 (Junction US 191)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 264	MP 441.02 (Junction US 191) to MP 446.87 (Junction US 191)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R <del>+ 2 LE</del>	
State Route 264	MP 446.87 (Junction US 191) to MP 476.12 (New Mexico State Line)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
<del>State Route 266</del>	<del>MP 104.60 (Junction US 191) to MP 123.80 (Bonita)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 12' - 16' = F/R</del>	
<del>State Route 266</del>	<del>MP 104.60 (Junction US 191) to MP 123.14 (Junction SR 266 Spur in Bonita)</del>	<del>R17-6-403</del>			<del>Over 12' - 16' = F/R</del>	
<del>State Route 266</del>	<del>MP 123.14 (Junction SR 266 Spur in Bonita) to MP 123.80 (Fort Grant Road in Bonita)</del>	<del>R17-6-403</del>			<del>Over 12' - 16' = F/R</del>	
<del>State Route 266 Spur</del>	<del>MP 123.14 (Junction SR 266 in Bonita) to MP 126.17 (Fort Grant)</del>	<del>R17-6-403</del>			<del>Over 12' - 16' = F/R</del>	
State Route 273	MP 377.46 (Junction SR 260) to MP 396.83 (Big Lake Turnoff)	<del>R17-6-406; R17-6-408;</del> <del>R17-6-403</del> ; Seasonal Road Closure			Over 14' - 16' = F/R	
State Route 277	MP 305.67 (Junction SR 260) to MP 312.62 (Junction SR 377)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 277	MP 312.62 (Junction SR 377) to MP 321.20 (Junction SR 277 Spur)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 277	MP 321.20 (Junction SR 277 Spur) to MP 336.45 (Junction SR 77)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
<del>State Route 277 Spur</del>	<del>MP 321.18 (Junction SR 277, West of Snowflake) to MP 322.40 (Old Paper Mill)</del>	<del>R17-6-403</del>			<del>Over 12' - 14' = F/R</del> <del>Over 14' - 16' = F/R</del> <del>+ 2 LE</del>	
State Route 286	MP 0.00 (US/Mexico Border) to MP 45.48 (Junction SR 86)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 287	MP 111.72 (Junction SR 387) to MP 115.84 (Junction I-10)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 287	MP 115.84 (Junction I-10) to MP 125.81 (Junction SR 87)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 287	MP 134.75 (Junction SR 87) to MP 142.96 (Junction SB 79)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 288	MP 258.10 (Junction SR 188) to MP 262.44 (Salt River Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		70'+ requires F/R	Over 8' 6" requires class C permit	
State Route 288	MP 262.44 (Salt River Bridge - Structure 37)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	12'	70'+ requires F/R	Over 8' 6" requires class C permit	Legal weight <u>only</u> , as provided under R17-6-102, Table 1.
State Route 288	MP 262.44 (Salt River Bridge) to MP 311.90 (Route end near Young)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		70'+ requires F/R	Over 8' 6" requires class C permit	
State Route 289	MP 0.00 (Junction I-19) to MP 10.83 (Route end)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 303 Loop	MP 103.87 (Junction I-10) to MP 119.28 (Junction US 60, Grand Avenue)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE R	
State Route 303 Loop	MP 119.28 (Junction US 60, Grand Avenue) to <del>MP 139.27</del> <u>MP 139.14</u> (Junction I-17 - Sonoran Desert Drive TI)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R + 2 LE R	
State Route 303 Loop	<u>MP 139.16 Northbound (I-17 South Underpass - Structure 2876)</u>	<u>R17-6-403</u>	15' 7"		Over 14' - 16' = R	
State Route 303 Loop	<u>MP 139.18 Southbound (I-17 North Underpass - Structure 2875)</u>	<u>R17-6-403</u>	15' 10"		Over 14' - 16' = R	
State Route 303 Loop	<u>MP 139.20 (Junction I-17 - Sonoran Desert Drive TI) to MP 139.29 (End of Route East of Junction I-17)</u>	<u>R17-6-403</u>			Over 14' - 16' = R	
State Route 347	MP 160.89 (Junction SR 84) to MP 174.55 (Junction SR 238)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	
State Route 347	MP 174.55 (Junction SR 238) to MP 189.31 (Junction I-10)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	
State Route 366	<del>MP 113.69 (Junction US 191) to MP 143.20 (Route end)</del>	<del>R17-6-406; R17-6-408; Seasonal Road Closure</del>		Over 40' requires class C permit	Over 8' requires class C permit	
State Route 366	<u>MP 113.69 (Junction US 191) to MP 118.60 (Coronado National Forest Marker)</u>	<u>R17-6-403</u>			Over 12' - 14' = F/R	
State Route 366	<u>MP 118.60 (Coronado National Forest Marker) to MP 143.20 (Route end)</u>	<u>R17-6-403; Seasonal Road Closure</u>		Over 40' requires class C permit	Over 8' 6" requires class C permit	
State Route 373	MP 385.65 (Junction SR 260) to MP 390.21 (End of route at Greer)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ requires F/R	Over 12' - 16' = F/R	
State Route 377	MP 0.00 (Junction SR 277) to MP 33.83 (Junction SR 77)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 386	MP 0.00 (Junction SR 86) to MP 12.05 (Kitt Peak National Observatory)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
State Route 387	MP 0.00 (Junctions SR 84 and SR 287) to MP 8.42 (Junction I-10)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 387	MP 8.42 (Junction I-10) to MP 15.72 (Junction SR 87)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 389	MP 0.00 (Utah State Line) to MP 32.60 (Junction US 89A)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
State Route 473	MP 0.00 (Junction SR 260) to MP 10.03 (Route end at Hawley Lake)	<del>R17-6-406; R17-6-408; R17-6-403; Seasonal Road Closure</del>		60'+ requires F/R	Over 10' - 14' = F/R Over 14' requires class C permit	20,000
State Route 564	MP 374.28 (Junction US 160) to MP 383.46 (Route end)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 14' = F/R Over 14' requires class C permit	
State Route 587	<del>MP 218.74 (Junction SR 87) to MP 225.14 (Junction I-10)</del>	<del>R17-6-406; R17-6-408</del>			Over 14' - 16' = F/R	
State Route 587	<u>MP 218.76 (Junction SR 87) to MP 225.30 (Junction I-10)</u>	<u>R17-6-403</u>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
State Route 989	MP 34.01 (N. Rancho Vistoso Blvd/N. 1st Avenue) to MP 36.00 (Junction SR 77 at N. Oracle Road)	<del>R17-6-402; R17-6-403;</del> R17-6-404			Over 14' - 16' = F/R	
U.S. Highway 60	MP 31.20 (Junction I-10) to MP 49.52 (Junction SR 72)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 49.52 (Junction SR 72) to MP 85.91 (Junction SR 71)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 85.91 (Junction SR 71) to MP 107.7 (Vulture Mine Road)	<del>R17-6-406; R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 107.7 (Vulture Mine Road) to MP 110.24 (Washington Street)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.24 Eastbound (Washington Street Underpass, Wickenburg - Structure 535)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	13' 11" 13' 10"		Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.24 Westbound (Washington Street Underpass, Wickenburg - Structure 535)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	13' 7" 13' 9"		Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.25 Eastbound (Railroad Underpass, Wickenburg - Structure 195)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	13' 11" 13' 10"		Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.25 Westbound (Railroad Underpass, Wickenburg - Structure 195)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	13' 7" 13' 9"		Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.26 Eastbound (Frontier Street Underpass, Wickenburg - Structure 1000)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	13' 11" 13' 10"		Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.26 Westbound (Frontier Street Underpass, Wickenburg - Structure 1000)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	13' 7" 13' 9"		Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.26 (Frontier Street) to MP 110.33 (Junction US 93)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 110.33 (Junction US 93) to MP 138.48 (Junction SR 303 Loop)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 138.48 (Junction SR 303 Loop) to MP 148.90 (Junction SR 101 Loop)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 148.90 (Junction SR 101 Loop) to MP 160.10 (Junction I-17)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403; R17-6-404			Over 14' - 16' = F/R	
U.S. Highway 60	MP 172.00 (Junction I-10) to MP 172.90 (Hardy Drive)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> R17-6-403; R17-6-404			Over 14' - 16' = R	
U.S. Highway 60	MP 172.90 Eastbound (Hardy Drive Underpass - Structure 1376)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> R17-6-403; R17-6-404	15' 6" 15' 7"		Over 14' - 16' = R	
U.S. Highway 60	MP 172.90 Westbound (Hardy Drive Underpass - Structure 1376)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> R17-6-403; R17-6-404	15' 3"		Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 60	MP 172.90 (Hardy Drive) to MP 174.41 (Rural Road TI)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
U.S. Highway 60	MP 174.41 Eastbound (Rural Road Underpass - Structure 1660)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 11"		Over 14' - 16' = R	
U.S. Highway 60	MP 174.41 (Rural Road TI) to MP 175.42 (McClintock Drive)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
U.S. Highway 60	MP 175.42 Eastbound (McClintock Drive Underpass - Structure 1661)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	<del>15' 10"</del> 15' 11"		Over 14' - 16' = R	
U.S. Highway 60	MP 175.42 Westbound (McClintock Drive Underpass - Structure 1661)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 11"		Over 14' - 16' = R	
U.S. Highway 60	MP 175.42 (McClintock Drive) to MP 176.29 (Junction SR 101 Loop)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
<del>U.S. Highway 60</del>	<del>MP 176.29 (Junction SR 101) to MP 176.49 (SB 101 Over US 60)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<del>U.S. Highway 60</del>	<del>MP 176.49 Eastbound (SB 101 Over US 60 - Structures 1792, 1791, &amp; 2101)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>	<del>15' 8"</del>		<del>Over 14' - 16' = R</del>	
<del>U.S. Highway 60</del>	<del>MP 176.49 Westbound (SB 101 Over US 60 - Structures 1792, 1791, &amp; 2101)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>	<del>15' 9"</del>		<del>Over 14' - 16' = R</del>	
<del>U.S. Highway 60</del>	<del>MP 176.49 (SB 101 Over US 60) to MP 177.45 (Dobson Road)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>			<del>Over 14' - 16' = R</del>	
<u>U.S. Highway 60</u>	<u>MP 176.29 (Junction SR 101 Loop) to MP 177.45 (Dobson Road TI)</u>	<u>R17-6-402; R17-6-403;</u> <u>R17-6-404</u>			<u>Over 14' - 16' = R</u>	
U.S. Highway 60	MP 177.45 (Dobson Road Underpass - Structure 1795)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 9"		Over 14' - 16' = R	
U.S. Highway 60	MP 177.45 (Dobson Road TI) to MP 184.39 (Val Vista Drive TI)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
U.S. Highway 60	MP 184.39 (Val Vista Drive Underpass - Structure 1883)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 10"		Over 14' - 16' = R	
U.S. Highway 60	MP 184.39 (Val Vista Drive TI) to MP 184.77 (39th Street)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	
U.S. Highway 60	MP 184.77 (39th Street Underpass - Structure 1918)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>	15' 11"		Over 14' - 16' = R	
U.S. Highway 60	MP 184.77 (39th Street) to MP 188.38 (Power Road) MP 186.34 (Higley Road TI)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> <del>R17-6-403; R17-6-404</del>			Over 14' - 16' = R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 60	MP 186.34 (Higley Road Underpass - Structure 1922)	<del>R17-6-402; R17-6-403;</del> R17-6-404	15' 11"		Over 14' - 16' = R	
U.S. Highway 60	MP 186.34 (Higley Road TI) to MP 188.38 (Power Road TI)	<del>R17-6-402; R17-6-403;</del> R17-6-404			Over 14' - 16' = R	
U.S. Highway 60	MP 188.38 (Power Road Underpass - Structure 1924)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> R17-6-403; R17-6-404	15' 9"		Over 14' - 16' = R	
U.S. Highway 60	MP 188.38 (Power Road TI) to MP 190.51 (Junction SR 202 Loop)	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> R17-6-403; R17-6-404			Over 14' - 16' = R	
U.S. Highway 60	MP 190.51 (Junction SR 202 Loop) to MP 194.38 (Meridian Road)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = R	
U.S. Highway 60	MP 194.38 (Meridian Road Underpass - Structure 1438)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403	15' 9"		Over 14' - 16' = R	
U.S. Highway 60	MP 194.38 (Meridian Road) to MP 196.14 (Junction SR 88, Idaho Road)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = R	
U.S. Highway 60	MP 196.14 (Junction SR 88, Idaho Road) to MP 212.17 (Junction SR 79)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-408; R17-6-409</del> R17-6-402; R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 60	MP 212.17 (Junction SR 79) to MP 226.87 (Junction SR 177)	<del>R17-6-405; R17-6-406;</del> <del>R17-6-407; R17-6-408;</del> <del>R17-6-409 R17-6-402;</del> R17-6-403; R17-6-407			Over 14' - 16' = F/R	
U.S. Highway 60	MP 226.87 (Junction SR 177) to MP 227.71 (Queen Creek Bridge)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408 R17-6-403;</del> R17-6-407		80'+ unarticulated non-articulated requires F/R; 110'+ articulated requires F/R	Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 60	MP 227.71 (Queen Creek Bridge - Structure 406)	<del>R17-6-406; R17-6-407; R17-6-408</del> <u>R17-6-403; R17-6-407</u>		80'+ <del>unarticulated non-articulated</del> requires F/R; 110'+ articulated requires F/R	Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	<del>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge.</del>  Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more: <u>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. 150,001 or more requires a Class C permit with special analysis and approval from the ADOT Bridge Group.</u>
U.S. Highway 60	MP 227.71 (Queen Creek Bridge) to MP 228.47 (Queen Creek Tunnel)	<del>R17-6-406; R17-6-407; R17-6-408</del> <u>R17-6-403; R17-6-407</u>		80'+ <del>unarticulated non-articulated</del> requires F/R; 110'+ articulated requires F/R	Over 11' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
U.S. Highway 60	MP 228.47 (Queen Creek Tunnel - Structure 407)	<del>R17-6-406; R17-6-407; R17-6-408</del> <u>R17-6-403; R17-6-407</u>  * Loads 14' to 20' in height require F/R + 2 LE and shall drive in center of tunnel	14' *	80'+ <del>unarticulated non-articulated</del> requires F/R; 110'+ articulated requires F/R	Over 11' - 14' = F/R Over 14' - 16' = F/R + 2 LE	* <u>Over 14' to 16' in height requires F/R + 2 LE: Coordinate road closures by or under the direction of law enforcement escorts; and Drive in center of tunnel.</u>
U.S. Highway 60	MP 228.47 (Queen Creek Tunnel) to MP 238.25 (Pinto Creek Bridge)	<del>R17-6-406; R17-6-407; R17-6-408</del> <u>R17-6-403; R17-6-407</u>		80'+ <del>unarticulated non-articulated</del> requires F/R; 110'+ articulated requires F/R	Over 11' - 14' = F/R Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 60	MP 238.25 (Pinto Creek Bridge - Structure 351)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408</del> <u>R17-6-403;</u> <u>R17-6-407</u>		80'+ <del>unarticulated</del> <del>non-articulate</del> d requires F/R; 110'+ articulated requires F/R	Over 11' - 14' = F/R Over 14' - 16' = F/R + 2 LE	<del>Class A permitted vehicles</del> <del>with a gross weight of:</del> <del>100,000 or less - no</del> <del>additional restrictions;</del> <del>100,001 through 150,000 -</del> <del>drivers shall:</del> <del>Coordinate road closures</del> <del>by or under the direction</del> <del>of law enforcement; and</del> <del>Cross on center of bridge</del> <del>at a constant speed of no</del> <del>more than 10 mph while</del> <del>on bridge.</del> <del>Class C permits and special</del> <del>analysis and approval from</del> <del>the ADOT Bridge Group</del> <del>are required for vehicles</del> <del>with a gross weight of</del> <del>150,001 or more:</del> <del>Class A permitted vehicles</del> <del>with a gross weight of:</del> <del>100,000 or less - no</del> <del>additional restrictions;</del> <del>100,001 through 150,000 -</del> <del>drivers shall:</del> <del>Coordinate road closures</del> <del>by or under the direction</del> <del>of 2 law enforcement</del> <del>escorts; and</del> <del>Cross on center of bridge</del> <del>at a constant speed of no</del> <del>more than 10 mph while</del> <del>on bridge.</del> <del>150,001 or more requires</del> <del>a Class C permit with</del> <del>special analysis and</del> <del>approval from the ADOT</del> <del>Bridge Group.</del>
U.S. Highway 60	MP 238.25 (Pinto Creek Bridge) to MP 247.04 (Junction SR 188)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408</del> <u>R17-6-403;</u> <u>R17-6-407</u>		80'+ <del>unarticulated</del> <del>non-articulate</del> d requires F/R; 110'+ articulated requires F/R	Over 11' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
U.S. Highway 60	MP 247.04 (Junction SR 188) to MP 252.06 (Junction US 70)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408</del> <u>R17-6-403;</u> <u>R17-6-407</u>		80'+ <del>unarticulated</del> <del>non-articulate</del> d requires F/R; 110'+ articulated requires F/R	Over 11' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
U.S. Highway 60	MP 252.06 (Junction US 70) to MP 292.91 (Apache Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ <del>unarticulated</del> <del>non-articulate</del> d requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' Prohibited	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 60	MP 292.91 (Apache Bridge - Structure 1929)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ <del>unarticulated</del> <u>non-articulate</u> d requires F/R; 110'+ articulated requires F/R	<del>Over 12' - 14' = F/R</del> <del>+ 2 LE</del> Over 14' Prohibited	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement <u>escorts</u> ; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. <del>Class C permitted vehicles with a gross weight of over 250,000 require special analysis and approval from the ADOT Bridge Group.</del> <u>Class C permitted vehicles with a gross weight of 250,001 or more require special analysis and approval from the ADOT Bridge Group.</u>
U.S. Highway 60	MP 292.91 (Apache Bridge) to MP 318.14 (Junction SR 73)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ <del>unarticulated</del> <u>non-articulate</u> d requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' Prohibited	
U.S. Highway 60	MP 318.14 (Junction SR 73) to MP 323.44 (Cedar Canyon Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ <del>unarticulated</del> <u>non-articulate</u> d requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 60	MP 323.44 (Cedar Canyon Bridge - Structure 215)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		80'+ <del>unarticulated</del> <del>non-articulated</del> d requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more. Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. 150,001 or more requires a Class C permit with special analysis and approval from the ADOT Bridge Group.
U.S. Highway 60	MP 323.44 (Cedar Canyon Bridge) to MP 339.71 (Junction SR 260)	R17-6-406; R17-6-408		80'+ unarticulated requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
U.S. Highway 60	MP 323.44 (Cedar Canyon Bridge) to MP 338.86 (Summit Trail)	R17-6-403		80'+ non-articulated d requires F/R; 110'+ articulated requires F/R	Over 12' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
U.S. Highway 60	MP 338.86 (Summit Trail) to MP 339.71 (Junction SR 260)	R17-6-403		80'+ non-articulated d requires F/R; 110'+ articulated requires F/R	Over 12' - 16' = F/R	
U.S. Highway 60	MP 339.71 (Junction SR 260) to MP 341.69 (Junction SR 260)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 60	MP 341.69 (Junction SR 260) to MP 342.77 (Junction SR 77)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 60	MP 342.77 (Junction SR 77) to MP 353.16 (Junction SR 61)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 60	MP 353.16 (Junction SR 61) to MP 384.45 (Junction US 180)	R17-6-406; R17-6-408			Over 12' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 60	MP 353.16 (Junction SR 61) to MP 371.74 (Mallory Draw)	R17-6-403			Over 12' - 16' = F/R	
U.S. Highway 60	MP 371.74 (Mallory Draw Bridge - Structure 2605)	R17-6-403			Over 12' - 16' = F/R	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. Class C permitted vehicles with a gross weight of: 250,001 or more require special analysis and approval from the ADOT Bridge Group.
U.S. Highway 60	MP 371.74 (Mallory Draw) to MP 384.45 (Junction US 180)	R17-6-403			Over 12' - 16' = F/R	
U.S. Highway 60	MP 384.45 (Junction US 180) to MP 401.97 (New Mexico State Line)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 12' - 16' = F/R	
U.S. Highway 64	MP 465.40 (Junction US 160) to MP 469.54 (New Mexico State Line)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 70	MP 252.14 (Junction US 60) to MP 253.63 (Railroad Underpass)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 70	MP 253.63 (Railroad Underpass - Structure 562)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403	15' 6"		Over 14' - 16' = F/R	
U.S. Highway 70	MP 253.63 (Railroad Underpass) to MP 254.11 (Junction SR 77)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 70	MP 254.11 (Junction SR 77) to MP 339.45 (Junction US 191)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 70	MP 339.45 (Junction US 191) to MP 349.48 (Junction US 191)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 70	MP 349.48 (Junction US 191) to MP 378.90 (Junction SR 75)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 70	MP 378.90 (Junction SR 75) to MP 385.25 (New Mexico State Line)	<del>R17-6-406</del> ; <del>R17-6-408</del> R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 89	MP 401.00 (Junction I-40) to MP 403.18 (Junction SB 40)	R17-6-406; R17-6-408			Over 14' - 16' = F/R	
U.S. Highway 89	MP 418.59 (Junction SB 40) to MP 465.21 (Junction SR 64)	R17-6-406; R17-6-408			Over 14' - 16' = F/R	
U.S. Highway 89	MP 401.00 (Junction I-40) to MP 420.38 (Junction SB 40)	R17-6-403			Local Requirements	City of Flagstaff Jurisdiction
U.S. Highway 89	MP 420.38 (Junction SB 40) to MP 465.21 (Junction SR 64)	R17-6-403			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 89	MP 465.21 (Junction SR 64) to MP 466.88 (Cameron Bridge)	R17-6-406; R17-6-408			Over 14' - 16' = F/R	
U.S. Highway 89	MP 466.88 (Cameron Bridge - Structure 532)	R17-6-406; R17-6-408			Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more.
U.S. Highway 89	MP 466.88 (Cameron Bridge) to MP 480.80 (Junction US 160)	R17-6-406; R17-6-408			Over 14' - 16' = F/R	
U.S. Highway 89	MP 465.21 (Junction SR 64) to MP 480.80 (Junction US 160)	R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 89	MP 480.80 (Junction US 160) to MP 524.01 (Junction US 89A)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 89	MP 524.01 (Junction US 89A) to MP 546.20 (Junction SR 98)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 89	MP 546.20 (Junction SR 98) to MP 549.54 (Glen Canyon Bridge)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R	
U.S. Highway 89	MP 549.54 (Glen Canyon Bridge - Structure 537)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. Class C permitted vehicles with a gross weight of over 250,000 require special analysis and approval from the ADOT Bridge Group. Class C permitted vehicles with a gross weight of: 250,001 or more require special analysis and approval from the ADOT Bridge Group.
U.S. Highway 89	MP 549.54 (Glen Canyon Bridge) to MP 556.99 (Utah State Line)	R17-6-406; R17-6-408 R17-6-403			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 89A	MP 524.07 (Junction US 89) to MP 537.86 (Navajo Bridge at Colorado River)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
U.S. Highway 89A	MP 537.86 (Navajo Bridge at Colorado River - Structure 2340)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. <del>Class C permitted vehicles with a gross weight of over 250,000 require special analysis and approval from the ADOT Bridge Group.</del> <u>Class C permitted vehicles with a gross weight of: 250,001 or more require special analysis and approval from the ADOT Bridge Group.</u>
U.S. Highway 89A	MP 537.86 (Navajo Bridge at Colorado River) to MP 547.00 ( <del>Cliff Dweller's Cliff Dweller's</del> Lodge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 10' - 14' = F/R Over 14' - 16' = F/R + 2 LE	
U.S. Highway 89A	MP 547.00 ( <del>Cliff Dweller's</del> Cliff Dweller's Lodge) to MP 579.30 (Junction SR 67)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 8' 6" requires class C permit	
U.S. Highway 89A	MP 579.30 (Junction SR 67) to MP 609.23 (Junction SR 389)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 89A	MP 609.23 (Junction SR 389) to MP 613.03 (Utah State Line)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 93	MP 0.00 (Hoover Dam Bypass) to MP 67.20 (Junction SR 68)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	Nevada issues permit for Mike O'Callaghan – Pat Tillman Memorial Bridge (Colorado River Bridge).
U.S. Highway 93	MP 67.20 (Junction SR 68) to MP 71.10 (Junction I-40, Exit # 48)	<del>R17-6-405; R17-6-406; R17-6-408; R17-6-409</del> <u>R17-6-402; R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 93	MP 91.38 (Junction I-40, Exit # 71) to MP 139.07 Southbound (Burro Creek Bridge)	<del>R17-6-406; R17-6-407; R17-6-408</del> <u>R17-6-403; R17-6-407</u>			Over 14' - 16' = F/R + 2 LE	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 93	MP 139.07 Southbound (Burro Creek Bridge - Structure 846)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408 R17-6-403;</del> <del>R17-6-407</del>			Over 14' - 16' = F/R + 2 LE	Class A permitted vehicles with a gross weight of: 150,000 or less - no additional restrictions; 150,001 through 250,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge. <del>Class C permitted vehicles with a gross weight of over 250,000 require special analysis and approval from the ADOT Bridge Group.</del> <u>Class C permitted vehicles with a gross weight of 250,001 or more require special analysis and approval from the ADOT Bridge Group.</u>
U.S. Highway 93	MP 139.07 Southbound (Burro Creek Bridge) to MP 154.85 (Junction SR 97)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408 R17-6-403;</del> <del>R17-6-407</del>			Over 14' - 16' = F/R + 2 LE	
U.S. Highway 93	MP 154.85 (Junction SR 97) to MP 182.90 (Junction SR 71)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408 R17-6-403;</del> <del>R17-6-407</del>			Over 14' - 16' = F/R + 2 LE	
U.S. Highway 93	MP 182.90 (Junction SR 71) to MP 193.61 (Junction SR 89)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408 R17-6-403;</del> <del>R17-6-407</del>			Over 14' - 16' = F/R + 2 LE	
U.S. Highway 93	MP 193.61 (Junction SR 89) to MP 199.67 (Junction US 60 in Wickenburg)	<del>R17-6-406; R17-6-407;</del> <del>R17-6-408 R17-6-403;</del> <del>R17-6-407</del>			Over 14' - 16' = F/R + 2 LE	
U.S. Highway 95	<del>MP 0.00 (US/Mexico Border) to MP 19.84 (32nd Street East)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
U.S. Highway 95	<del>MP 19.84 (32nd Street East) to MP 24.25 (Junction I-8)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>			<del>Over 14' - 16' = F/R</del>	
U.S. Highway 95	<del>MP 24.25 (Junction I-8) to MP 31.87 (Avenue 9E)</del>	<del>R17-6-404; R17-6-405;</del> <del>R17-6-406; R17-6-408;</del> <del>R17-6-409</del>			<del>Over 14' - 16' = F/R</del>	
U.S. Highway 95	<del>MP 31.87 (Avenue 9E) to MP 104.25 (Junction I-10)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
U.S. Highway 95	<del>MP 29.34 (Araby Road) to MP 104.25 (Junction I-10)</del>	<del>R17-6-403</del>			<del>Over 14' - 16' = F/R</del>	
U.S. Highway 95	MP 104.25 (Junction I-10) to MP 104.51 ( <del>SB-10 Main Street</del> in Quartzsite)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			Over 14' - 16' = F/R	
U.S. Highway 160	MP 311.46 (Junction US 89) to MP 321.86 (Junction SR 264)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			Over 14' - 16' = F/R	
U.S. Highway 160	MP 321.86 (Junction SR 264) to MP 361.61 (Junction SR 98)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			Over 14' - 16' = F/R	
U.S. Highway 160	MP 361.61 (Junction SR 98) to MP 374.28 (Junction SR 564)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			Over 14' - 16' = F/R	
U.S. Highway 160	MP 374.28 (Junction SR 564) to MP 393.57 (Junction US 163)	<del>R17-6-406; R17-6-408</del> <del>R17-6-403</del>			Over 14' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 160	MP 393.57 (Junction US 163) to MP 434.87 (Junction US 191)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 160	MP 434.87 (Junction US 191) to MP 437.22 (Junction US 191; BIA 12)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 160	MP 437.22 (Junction US 191; BIA 12) to MP 465.40 (Junction US 64)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 160	MP 465.40 (Junction US 64) to MP 470.73 (New Mexico State Line)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 163	MP 393.52 (Junction US 160) to MP 396.16 (Laguna Wash Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 163	MP 396.16 (Laguna Wash Bridge - Structure 25)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R + 2 LE	<p>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge.</p> <p>Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more.</p> <p>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge.</p> <p>150,001 or more requires a Class C permit with special analysis and approval from the ADOT Bridge Group.</p>
U.S. Highway 163	MP 396.16 (Laguna Wash Bridge) to MP 416.71 (Utah State Line)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 180	MP 215.44 (Junction SB 40) to MP 265.82 (Junction SR 64)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 180	MP 307.30 (Junction SR 77) to MP 343.13 (Junction SR 180A)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 180	MP 343.13 (Junction SR 180A) to MP 358.44 (Junction SR 61)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 180	MP 358.44 (Junction SR 61) to MP 368.92 (Junction US 191)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 180	MP 368.92 (Junction US 191) to MP 394.36 (Junction US 60)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 180	MP 400.61 (Junction US 60) to MP 426.33 (Junction US 191)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 180	MP 426.33 (Junction US 191) to MP 433.26 (New Mexico State Line)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
<del>U.S. Highway 191</del>	<del>MP 0.00 (Junction SR 80) to MP 38.12 (Junction SR 181)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
<u>U.S. Business 191</u>	<u>MP 0.00 (US/Mexico Border) to MP 1.15 (Junction SR 80, Douglas)</u>	<u>R17-6-403</u>			<u>Over 14' - 16' = F/R</u>	
<u>U.S. Highway 191</u>	<u>MP 1.15 (Junction SR 80, Douglas) to MP 38.12 (Junction SR 181)</u>	<u>R17-6-403</u>			<u>Over 14' - 16' = F/R</u>	
U.S. Highway 191	MP 38.12 (Junction SR 181) to MP 66.55 (Junction I-10)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 191	MP 87.43 (Junction I-10) to MP 104.38 (Junction SR 266)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 191	MP 104.38 (Junction SR 266) to MP 113.69 (Junction SR 366)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 191	MP 113.69 (Junction SR 366) to MP 121.02 (Junction US 70)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 191	MP 130.60 (Junction US 70) to MP 154.90 Southbound (Cold Creek Bridge)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 191	MP 154.90 Southbound (Cold Creek Bridge - Structure 258)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 191	MP 154.90 Southbound (Cold Creek Bridge) to MP 163.95 (Temporary US 191, Clifton)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
U.S. Highway 191	MP 179.36 (Junction at end of Temporary US 191) to MP 215.41 (Forest Service Route 25)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>		Over 40' requires class C permit	Over 8' 6" requires class C permit	
U.S. Highway 191	MP 215.41 (Forest Service Route 25) to MP 253.74 (Junction US 180, Alpine)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 8' 6" requires class C permit	
U.S. Highway 191	MP 315.55 (Junction US 180 in St Johns) to MP 344.49 (Junction SR 61)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 14' - 16' = F/R	
<del>U.S. Highway 191</del>	<del>MP 344.49 (Junction SR 61) to MP 368.47 (Railroad Overpass, Sanders)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	
<del>U.S. Highway 191</del>	<del>MP 368.47 (Railroad Overpass, Sanders - Structure 346)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	Legal weight as provided under R17-6-102, Table 1.
<del>U.S. Highway 191</del>	<del>MP 368.47 (Railroad Overpass, Sanders) to MP 368.50 (Junction I-40 in Sanders)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 14' - 16' = F/R</del>	

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
<u>U.S. Highway 191</u>	<u>MP 344.49 (Junction SR 61) to MP 368.50 (Junction I-40 in Sanders)</u>	<u>R17-6-403</u>			<u>Over 14' - 16' = F/R</u>	
U.S. Highway 191	MP 374.00 (Junction I-40) to MP 411.63 (Junction SR 264, Ganado)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
U.S. Highway 191	MP 417.55 (Junction SR 264) to MP 510.34 (Junction US 160)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 12' - 16' = F/R	
<del>U.S. Highway 191 Temp (UX 191)</del>	<del>MP 163.95 (Temporary US 191, Clifton) to MP 169.00 (Phelps Dodge Mine entrance)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 8' requires class C permit</del>	
<del>U.S. Highway 191 Temp (UX 191)</del>	<del>MP 169.00 (Phelps Dodge Mine entrance) to MP 169.20 (Phelps Dodge Viaduct)</del>	<del>R17-6-406; R17-6-408</del>			<del>Over 8' requires class C permit</del>	
<u>U.S. Highway 191 Temp (UX 191)</u>	<u>MP 163.95 (Temporary US 191, Clifton) to MP 169.04 (Freeport-McMoRan Mine Entrance)</u>	<u>R17-6-403</u>			<u>Over 12' - 16' = F/R</u>	
<u>U.S. Highway 191 Temp (UX 191)</u>	<u>MP 169.04 (Freeport-McMoRan Mine Entrance) to MP 169.20 (Freeport-McMoRan Viaduct)</u>	<u>R17-6-403</u>			<u>Over 8' 6" requires class C permit</u>	
U.S. Highway 191 Temp (UX 191)	MP 169.20 ( <del>Phelps Dodge</del> <u>Freeport-McMoRan Viaduct - Structure 1631</u> )	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 8' 6" requires class C permit	<p><del>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of law enforcement; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge.</del></p> <p><u>Class C permits and special analysis and approval from the ADOT Bridge Group are required for vehicles with a gross weight of 150,001 or more:</u></p> <p><u>Class A permitted vehicles with a gross weight of: 100,000 or less - no additional restrictions; 100,001 through 150,000 - drivers shall: Coordinate road closures by or under the direction of 2 law enforcement escorts; and Cross on center of bridge at a constant speed of no more than 10 mph while on bridge.</u></p> <p><u>150,001 or more requires a Class C permit with special analysis and approval from the ADOT Bridge Group.</u></p>

Route	Restriction Location (MP = Milepost)	Transport Subject to:	Height	Length	Width	Weight (in lbs)
<b>Escort requirements: F = front escort, R = rear escort, F/R = front and rear escort, and LE = law enforcement escort</b>						
U.S. Highway 191 Temp (UX 191)	MP 169.20 ( <del>Phelps Dodge</del> <del>Freeport-McMoRan</del> Viaduct) to MP 169.30 (Railroad Underpass)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 8' 6" requires class C permit	
U.S. Highway 191 Temp (UX 191)	MP 169.30 (Railroad Underpass - Structure 1632)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	15'		Over 8' 6" requires class C permit	
U.S. Highway 191 Temp (UX 191)	MP 169.30 (Railroad Underpass) to <del>MP 169.39</del> <u>MP 169.20</u> (Rock Tunnel)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 8' 6" requires class C permit	
U.S. Highway 191 Temp (UX 191)	<del>MP 169.39</del> <u>MP 169.20</u> (Rock Tunnel - Structure 1633)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>	<del>12' 6"</del> <u>12' 7"</u>		Over 8' 6" requires class C permit	
U.S. Highway 191 Temp (UX 191)	<del>MP 169.39</del> <u>MP 169.20</u> (Rock Tunnel) to MP 179.36 (Junction at end of Temporary US 191)	<del>R17-6-406; R17-6-408</del> <u>R17-6-403</u>			Over 8' 6" requires class C permit	

**R17-6-413.      Renumbered**

**Table 5.      Renumbered**

**R17-6-414.      Renumbered**

**ARTICLE 5. ENVELOPE PERMIT SPECIAL PROVISIONS**

**R17-6-501. General Provisions; Definitions**

- A.** The Department shall issue and regulate oversize and overweight envelope permits as provided under this Chapter. The Department implements these Sections under authority of A.R.S. §§ 28-366, 28-1111, 28-1142, 28-1144, 28-1146, 28-1149, and 28-7045, in collaboration with the Overdimensional Permit Council as prescribed under A.R.S. § 28-1150.
- B.** An envelope permit issued by the Department under this Article is not applicable for transporting a modular or mobile home.
- C.** Definitions applicable to this Article are prescribed under R17-6-101, A.R.S. § 28-101, and A.R.S. § 28-601.

**R17-6-210-R17-6-502. Envelope Permits Permit - Non-specific and Non-reducible Vehicle or Load**

- A.** The Department shall issue an annual or 30-day oversize envelope permit, or an annual or 30-day oversize and overweight envelope permit, according to the following criteria for a non-specific and non-reducible vehicle or load that meets the definition of envelope permit under R17-6-101, and does not exceed the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411:

Vehicle or load description	A non-specific and non-reducible vehicle or load that meets the definition of envelope permit under R17-6-101 and is within the maximum permitted weights provided under R17-6-411	
Permit option	30-day oversize only	
	30-day oversize and overweight	
	Annual oversize only	
	Annual oversize and overweight	
Fee (A.R.S. § 28-1143)	30-day oversize only	\$150
	30-day oversize and overweight	\$500
	Annual oversize only	\$750
	Annual oversize and overweight	\$1,500

- B.** An applicant for an oversize, or oversize and overweight, envelope permit shall apply to the Department and submit appropriate fees using the application procedure provided under ~~R17-6-103~~ R17-6-503.
- C.** An applicant for an oversize, or oversize and overweight, envelope permit provided by the Department under subsection (A) for a vehicle that is a self-propelled mobile crane, drilling rig, or similar specialty equipment meeting the dimensional requirements provided under ~~R17-6-201~~ R17-6-205, shall provide submit to the Department proof of gross weight:
 
  1. For ~~an~~ initial application, a public weighmaster’s certificate of weight and measure issued at a certified public scale once the vehicle is equipped and set for highway travel; or

2. For a renewal application, a certification by the applicant that no dimension has changed and the vehicle does not exceed the originally certified dimensions or weights.
- D. ~~The Department shall assess an additional service charge for~~ An envelope permit holder shall apply to the Department for reissuance of the envelope permit to reflect any changes made to the permittee's name, address, or substitute power units after initial issuance and shall pay the fees prescribed under A.R.S. § 28-1143, as follows:
1. ~~A~~ For a modified permit duplicate: \$25; and or
  2. ~~Each~~ For each additional power unit exceeding the original number of permitted power units: \$50.
- E. A permittee or driver of an oversize or overweight vehicle or load shall not access a route listed under R17-6-412, Table 4, unless operating in full compliance with all indicated restrictions and requirements.

**R17-6-503. Envelope Permit - General Application Procedure**

- A. Unless otherwise provided in this Chapter, an applicant requesting an envelope permit for transport of an oversize, overweight, or oversize and overweight vehicle, combination of vehicles, or vehicle and load combination shall apply to the Department using the appropriate application method provided below for each type of permit required:
1. For an envelope permit authorizing movement of a non-specific non-reducible vehicle, combination of vehicles, or vehicle and load combination with dimensions that do not exceed the class A oversize and overweight special permit limitations provided under R17-6-201:
    - a. Complete the online application process using the Department's electronic permitting system available on the Department's website; or
    - b. Complete an oversize/overweight envelope permit application form, available on the Department's website, and mail or deliver the written application to the address indicated on the application.
  2. For an envelope permit authorizing movement of a houseboat under A.R.S. § 28-1144(B), complete an envelope permit application form, available on the Department's website, and mail or deliver the written application to the Port of Entry located in Page, Arizona.
- B. Unless otherwise provided under this Chapter, an applicant for an oversize or overweight envelope permit shall provide to the Department, at the time of application, all applicable fees and information required by the Department under R17-6-502 and this Section for issuance of an appropriate class of permit, including:
1. Motor carrier related information:
    - a. Name and address of the applicant's principal or established place of business;
    - b. Name, phone number, and email address of an official company representative; and
    - c. USDOT number;
  2. Power unit related information:
    - a. Vehicle make, body style, and year;
    - b. Vehicle identification number;
    - c. Unit number assigned;
    - d. License plate number; and

- e. Base jurisdiction - state of registration:
  - 3. Evidence of valid registration as provided under A.R.S. § 28-2153; and
  - 4. Evidence of a valid IFTA license as provided under A.R.S. § 28-5742, if applicable.
- C. An applicant for an oversize or overweight envelope permit shall certify to the Department that all information provided on the application is true and correct.

**R17-6-504. Envelope Permit - Class C Tridem Axle Group Configurations**

- A. The Department may issue a 30-day or annual oversize envelope permit, or oversize and overweight envelope permit under this Article, using the criteria provided under R17-6-212 for tridem axle group configurations. An envelope permit issued by the Department in accordance with the tridem axle group configuration criteria is also valid for movement of all class A non-specific and non-reducible vehicle or load combinations that meet the definition of envelope permit under R17-6-101.
- B. A permittee or driver issued an envelope permit for tridem axle group configurations under subsection (A) shall ensure that the non-specific and non-reducible vehicle or load combination transported under the envelope permit does not exceed the maximum permitted weight computations for overweight axle group weight distribution as provided under R17-6-411 or the maximum permitted weight of 60,000 pounds per tridem axle group, as applicable, subject to the routes and restrictions provided under R17-6-412, Table 4.

**R17-6-505. Envelope Permit - Trip Authorization Process for Tridem Axle Group Configurations**

- A. A permittee or driver issued an annual envelope permit under R17-6-504(A) shall:
- 1. Comply with all provisions applicable to the application, issuance, and maintenance of envelope permits issued by the Department under this Chapter; and
  - 2. Notify the Department before initiating transport of any vehicle, combination of vehicles, or vehicle and load combination using the annual envelope permit by:
    - a. Completing the electronic notification process made available by the Department on its website; and
    - b. Obtaining a trip-authorization number.
- B. A permittee or driver shall carry the trip-authorization number in the vehicle with the annual envelope permit at all times during transport as confirmation that the notification process was completed.

**R17-6-506. Page-Lake Powell Area Houseboat Hauling Envelope Permit**

- A. An applicant requesting an envelope permit for a vehicle hauling a houseboat under A.R.S. § 28-1144(B) shall:
- 1. Apply to the Department using the application procedure provided under ~~R17-6-103~~ R17-6-503; and
  - 2. Pay the applicable fees prescribed under ~~R17-6-210~~ R17-6-502.
- B. A permittee issued an envelope permit under this Section shall:
- 1. Comply with all provisions applicable to the application, issuance, and maintenance of envelope permits under this Chapter;
  - 2. Notify the Department as required under A.R.S. § 28-1144(B) before transporting a houseboat authorized by the envelope permit. This notification shall include at least the following information:
    - a. The number of the authorizing envelope permit;

- b. The date of transport;
  - c. The transport origination;
  - d. The transport destination;
  - e. The name and hull identification number of the houseboat being transported;
  - f. The overall length, height, and width of the vehicle and load combination;
  - g. The overall gross weight of the vehicle and load combination; and
  - h. The total number of axles on the vehicle and load combination;
3. Notify the Department each time information submitted under subsection (B)(2) ~~of this Section~~ changes by submitting a new notification to the Department; and
  4. Complete the notifications required under subsections (B)(2) and ~~(B)(3) of this Section~~ electronically through the Department's ~~web site~~ website at [www.azdot.gov](http://www.azdot.gov).

**~~R17-6-501~~:R17-6-507. Envelope Permit Required Recordkeeping**

- A. An envelope permit holder shall maintain in this state, for at least three years, records and other data for all vehicles operated, and cargo transported, under an envelope permit as required under A.R.S. § 28-1149. The records and other data shall include:
  1. Bills of lading,
  2. Shipping manifests, and
  3. Time cards or invoices.
- B. A record retained by an envelope permit holder under subsection (A) shall contain, at least, the following information:
  1. Date of document preparation,
  2. Name of shipper and name of receiver,
  3. Address of load origination,
  4. Address of load destination, and
  5. Dates of transport.

**~~R17-6-502~~:R17-6-508. Envelope Permit Suspension Point System**

The Director shall suspend an envelope permit, as prescribed under A.R.S. § 28-1147, by assigning points to the permittee for envelope permit violations as follows:

1. Minor violations - one point:
  - a. Improper or inadequate flagging as provided under R17-6-302 and R17-6-307,
  - b. Improper or inadequate lighting as provided under R17-6-304 and R17-6-307,
  - c. Improper or inadequate "OVERSIZE LOAD" signage display as provided under R17-6-303,
  - d. Use of an escort vehicle not equipped as provided under R17-6-305,
  - e. Failing to maintain proper follow-distance from another oversize or overweight vehicle or load as provided under R17-6-401, or
  - f. Exceeding permitted speed but not exceeding posted speed as provided under ~~R17-6-402~~ R17-6-401.

2. Major violations - three points:
  - a. Transporting a permitted vehicle or load on a highway restricted to certain hours of travel under ~~R17-6-404 through R17-6-407, or R17-6-412, Table 4~~ Article 4 of this Chapter;
  - b. Failing to display flags or lights when required under R17-6-302, R17-6-304, or R17-6-307;
  - c. Failing to display "OVERSIZE LOAD" signage when required under R17-6-303;
  - d. Exceeding the posted speed limit; or
  - e. Transporting a reducible load under an envelope permit.
3. Weight Violations, 1-36 points:
  - a. Gross vehicle weight exceeds the maximum weight allowed under R17-6-411:
    - i. Less than 2% over allowable weight - one point,
    - ii. 2% but less than 4% over allowable weight - two points,
    - iii. 4% but less than 6% over allowable weight - three points,
    - iv. 6% but less than 9% over allowable weight - six points,
    - v. 9% but less than 12% over allowable weight - 10 points,
    - vi. 12% but less than 15% over allowable weight - 18 points, or
    - vii. 15% or more over allowable weight - 36 points.
  - b. For each axle group exceeding the maximum weight allowed under R17-6-411:
    - i. Less than 4% over allowable weight - one point,
    - ii. 4% but less than 6% over allowable weight - two points,
    - iii. 6% but less than 9% over allowable weight - four points,
    - iv. 9% but less than 12% over allowable weight - six points,
    - v. 12% but less than 15% over allowable weight - 10 points,
    - vi. 15% but less than 20% over allowable weight - 18 points, or
    - vii. 20% or more over allowable weight - 36 points.
4. Flagrant Violations - 36 points:
  - a. Transporting a permitted load on a highway during a hazardous condition restricting travel under ~~R17-6-403~~ R17-6-405 or in violation of a law enforcement agency order,
  - b. Exceeding an envelope dimension as prescribed under A.R.S. § 28-1144,
  - c. Falsifying a permit application,
  - d. Altering a permit,
  - e. Failing to pay repair costs for highway damages as prescribed under A.R.S. § 28-1107,
  - f. Transporting a permitted load on a restricted highway or restricted bridge,
  - g. Failing to use an escort vehicle as ~~provided under R17-6-305~~ required under this Chapter, or
  - h. Failing to use an escort vehicle with a driver that meets the standards provided under R17-6-305.

**~~R17-6-503~~R17-6-509. Envelope Permit Suspension; Revocation; Enforcement**

- A. The Director shall suspend an envelope permit for point accumulation within any 12-month period according to the following schedule:

1. 14-19 points, one-week suspension;
  2. 20-29 points, two-week suspension;
  3. 30-35 points, four-week suspension; and
  4. More than 35 points, one-year suspension.
- B.** The Director shall revoke an envelope permit as provided under A.R.S. § 28-1147 for the following reasons:
1. Frequency of violation indicates a flagrant disregard for the law or the safety of the public,
  2. A permittee does not have an established place of business, or
  3. A permittee fails to maintain records as prescribed under ~~R17-6-504~~ R17-6-507 and A.R.S. § 28-1149.
- C.** A permittee shall surrender the permit to the Department within 72 hours after an order of suspension or revocation is effective.
1. If the permittee fails to surrender the permit within five working days of written demand, the Director shall suspend the permittee's envelope permit privileges for one year in addition to any other penalty assessed.
  2. The Department shall retrieve the permit if the permittee fails to return the permit within the prescribed time.
- D.** The Department shall not issue an envelope permit to a permittee during the permittee's period of suspension or revocation.

**~~R17-6-504~~R17-6-510. Notice of Point Assessment, Denial, Suspension, or Revocation**

- A.** The Department shall send to a permittee's last known address of record notice of the following:
1. Point assessment; or
  2. Permit denial, suspension, or revocation.
- B.** The notice shall inform the permittee of:
1. The right to appeal the action, and
  2. The procedure for requesting a hearing.
- C.** Any action taken under this Section becomes effective 25 days after the Department's action notice date unless a permittee submits a timely hearing request as provided under 17 A.A.C. 1, Article 5.

**~~R17-6-505~~R17-6-511. Envelope Permit Reapplication**

- A.** An envelope permit applicant denied issuance by the Department, as prescribed under A.R.S. § 28-1142, shall not reapply for an envelope permit for two years from the date of denial.
- B.** An envelope permit applicant, who has previously had an envelope permit revoked by the Department under A.R.S. § 28-1147, shall not reapply for an envelope permit for two years from the date of revocation.
- C.** Upon reapplication, an applicant shall show by a preponderance of evidence that the underlying cause for denial or revocation has been removed.

**ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT**

**TITLE 17. TRANSPORTATION**

**CHAPTER 6. DEPARTMENT OF TRANSPORTATION**

**OVERDIMENSIONAL PERMITS**

**R17-6-101 through R17-6-511**

**(All Sections, Tables, and Illustrations)**

**A. Economic, small business and consumer impact summary**

**1. Identification of the proposed rulemaking:**

The Arizona Department of Transportation (ADOT) and Overdimensional Permit Council have developed these proposed rules in coordination with a broad coalition of public and private transportation stakeholder groups including the Department of Public Safety (DPS), local law enforcement personnel, Arizona's business community, the Arizona Trucking Association, the Specialized Carriers & Rigging Association and other members of Arizona's trucking, heavy-haul transport, crane, utility, and escort vehicle industries. The proposed rules amend existing oversize and overweight envelope and special permit rules and contain reasonable permit requirements, restrictions, and allowances for transporting oversize and overweight vehicles and loads on the State Highway System.

On publication of final rulemaking at 19 A.A.R. 2486, August 16, 2013, effective September 7, 2013, several members of the Specialized Carriers & Rigging Association contacted the Department to express concern about a change made to the continuous travel allowance previously provided under R17-6-408(B) (now R17-6-205(B)) for the movement of self-propelled mobile cranes, drilling rigs, and similar specialty equipment from a 10' front or rear overhang allowance to a 3' front and 10' rear overhang allowance. In changing the language of the rule, the Department intended to expand the continuous travel allowance for all vehicles by allowing an overhang of up to 13' (previously only 10') as long as 10' of the overhang projected to the rear of the vehicle. However, by changing that language the Department inadvertently eliminated a variable overhang length consideration routinely used by the industry to justify eligibility for continuous travel previously relied on for movement of specialty equipment specifically manufactured for travel with more than 3' of front overhang (i.e., bucket trucks, ladder trucks, utility trucks, etc.). This rulemaking provides a new continuous travel allowance made specifically applicable to the movement of self-propelled mobile cranes, drilling rigs, and similar specialty equipment with no more than 20' of overhang (10' to the front and 10' to the rear) while transporting under a class A - Crane oversize or overweight envelope or special permit.

Representatives of the heavy-haul and oversize and overweight transport industries requested that the Department further clarify the rules by making minor technical corrections that may provide additional regulatory relief for the industry and ensure that the rules are more clear, concise, and understandable. Rule amendments, technical corrections, and clarifying changes considered by the Department since publication of the final rules on oversize and overweight special permits on August 16, 2013, include:

- a. Adding a special continuous travel allowance to accommodate self-propelled mobile cranes, drilling rigs, and similar specialty equipment traveling under a class A - Crane special permit at no more than 11' in width, 14' 6" in height, 10' in length of front overhang, and 10' in length of rear overhang;
- b. Removing an outdated address from the definition of "Arizona Central Commercial Permits Office";
- c. Providing clearer references to the thresholds at which a vehicle or a self-propelled mobile crane, drilling rig, or similar specialty equipment becomes subject to the metropolitan curfew transport allowance and restrictions provided under R17-6-404;
- d. Adding a class A annual permit option and a 30-day permit option as provided under Laws 2014, Ch. 60 (HB2430), to accommodate industry requests for expansion of the more desirable class A special permit by consolidating and renaming the class B - Oversize Combination, class B - Type R - Oversize Recreational Vehicle, class D - Crane, class G - Overwidth Vehicle or Combination, and class H - Overwidth Watercraft special permits, since the class A special permits can now accommodate all dimensions and permit options previously only available under the separate permit classes;
- e. Updating R17-6-102, Table 1, Threshold Dimensions, to reflect the higher legal thresholds provided under Laws 2016, Ch. 52 (HB2251), and the federal "Fixing America's Surface Transportation Act" or "FAST Act";
- f. Clarifying R17-6-103 and R17-6-204 (as renumbered to R17-6-211), for delinquent tax reporting purposes under A.R.S. § 42-19157, by prescribing the method and procedure used by the Department to verify eligibility for movement of a mobile home subject to payment of ad valorem taxes, including clarification on what the Department may accept as evidence of ad valorem tax payment or clearance;
- g. Repealing R17-6-212, Table 6, as duplicative information since all bridges currently designated by the Department as weight restricted are identified as such under R17-6-412, Table 4; and a special permitted vehicle with at least one tridem axle group configured as provided under R17-6-212 to distribute heavier weights over a larger surface area, may now travel on any route of the State Highway System, unless otherwise restricted under R17-6-412, Table 4;
- h. Repealing R17-6-212, Table 7, since the axle group weight calculations are no longer applicable to the new axle spacing criteria provided for class C - Tridem axle group configurations under R17-6-212;
- i. Consolidating the gross weight categories permitted for reducible vehicle and load combinations traveling under a class E special permit in conformance with legislative changes provided by Laws 2014, Ch. 60 (HB2430);

- j. Repealing the Western Regional Trip Permit previously made available under R17-6-211, since issuance of the permit was discontinued as provided under the Western Association of State Highway and Transportation Officials (WASHTO) Resolution 03-18, effective December 31, 2018;
- k. Providing illustrations of the warning flag configurations and safety lighting device requirements for vehicles or loads extending more than four feet beyond the front of a vehicle;
- l. Adding a reference to the general highway operations requirements under R17-6-401 to remind permittees and drivers issued any multiple trip oversize or overweight envelope or special permit to access and review the most current information on highway-specific restrictions, requirements, conditions, and allowances indicated on the Department's website prior to commencing transport, as currently required under R17-6-412;
- m. Clarifying that the general term "houseboat," when transported under an envelope or special permit issued by the Department as provided in A.R.S. § 28-1144(B), and this Chapter, encompasses all large non-reducible watercraft, including a yacht;
- n. Correcting the weight tables used for maximizing the amount of weight allowed when using wider tires on axle group configurations with two or more axles;
- o. Updating R17-6-412, Table 4, to reflect the most recent bridge height and weight restriction information as posted in real time on the Department's website; to remove some under-legal width restrictions no longer necessary on certain routes; and to expand the number of routes that can now accommodate oversize and overweight vehicles, combinations of vehicles, or vehicle and load combinations using tridem axle group configurations;
- p. Removing all curfew routes and restrictions from the Yuma metropolitan area; and
- q. Updating the statutory reference in the definition of "mobile home" to reflect changes made by Laws 2016, Ch. 128, §§ 19 through 21 (SB1530), which renumbered A.R.S. § 41-2142 as A.R.S. § 41-4001.

Additionally, this rulemaking will allow the Department to lift size or weight restrictions on certain routes for vehicle and load combinations operating in support of projects aimed at protecting watersheds from the negative environmental and economic impacts of flood damage, maintaining the health and vitality of at-risk timber forests, supporting the economic development of communities, and preventing loss of life and significant property or infrastructure damage as a result of catastrophic forest fires. State and federal hazardous fuel reduction projects are currently being conducted under Arizona's Four Forest Restoration Initiative, which is a collaborative effort to restore forest ecosystems on portions of four National Forests - Coconino, Kaibab, Apache-Sitgreaves, and Tonto - along the Mogollon Rim in northern Arizona and to reduce any constant threats to forest and rangeland health throughout rural Arizona.

This rulemaking also addresses all issues identified in the Department's five-year review report approved by the Governor's Regulatory Review Council July 12, 2018.

**2. Brief summary of the information included in the economic, small business, and consumer impact statement:**

This rulemaking details eligibility, application, and use requirements for a variety of permits the Department currently issues to commercial motor carriers for the operation of commercial motor vehicles, combinations of vehicles, or vehicle and load combinations exceeding any statutorily prescribed maximum size or weight limitation. The applicable statutes also provide authority for the Department to issue permits, require route analysis and approval, set conditions and restrictions, and collect fees.

This rulemaking aligns the Department's definition of a "non-reducible vehicle or load" with the federal definition of "non-divisible load or vehicle" and modifies the Department's issuance criteria for class A special permits to accommodate all vehicles, or vehicle and load combinations, previously only eligible for a class B, class B-Type R, class D, or class G special permit. The Department has determined that the broader class A special permits, which are the least restrictive permits most desired by industry representatives, will sufficiently encompass all specific non-reducible vehicles, combinations of vehicles, or vehicle and load combinations with dimensions that do not exceed the limitations provided under R17-6-201, or the maximum permitted weight computations provided under R17-6-411.

Since these rules modify the parameters of the Department's existing class A special permit to more closely follow the general permit requirement provided under A.R.S. § 41-1037 and to reduce the number of permit classes, categories, and types of special permits that each applicant must currently consider each time the applicant applies for permission to transport a vehicle or vehicle and load combination using the State Highway System, the Department anticipates only a minimal to moderate economic impact to the entities identified under item (B)(3) due to the costs involved in retraining personnel to apply for the appropriate permit using the Department's electronic permitting system.

The Department intends to begin collecting permit and trip data from all permittees or drivers using the new class C annual envelope permit with tridem axle group configurations as introduced under R17-6-505. The Department's traffic, bridge, pavement, and maintenance engineers will use the collected data to analyze and quantify infrastructure consumption costs associated with the extended use of tridem axle group configurations. Permittees and drivers subject to this new data collection requirement will be able to easily complete the required electronic notification process through the Department's website and will experience only the slightest degree of economic impact in reporting this critical information to the Department before each trip. However, permittees or drivers using the new class C annual envelope permit with tridem axle group configurations will experience a minimal to moderate benefit when using this new process since they will no longer be required to apply separately for a single-trip permit each time they need to move a vehicle or load.

Arizona's motoring public will experience no direct costs as a result of this rulemaking, but may experience the unquantifiable benefits the rules provide in maintaining general highway safety measures and supporting cost abatement in the preservation and integrity of the State Highway System infrastructure.

**a. The conduct and its frequency of occurrence that the rule is designed to change:**

The rule amendments detail the eligibility, application, and use requirements for a variety of permits the Department currently issues to commercial motor carriers for transporting vehicles or vehicle and load combinations exceeding the maximum size or weight limitations provided by statute. The Department needs to update these rules on a regular basis to maintain general highway safety measures and support cost abatement in the preservation and integrity of the State Highway System infrastructure.

**b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:**

If the rules are not updated the Department will be unable to accommodate industry requests for transport of oversize and overweight vehicles, or vehicle and load combinations, throughout the state in a safe and efficient manner.

**c. The estimated change in frequency of the targeted conduct expected from the rule change:**

With the updated rules in place, the Department, law enforcement agencies, and the oversize and overweight transport industry can more uniformly coordinate movement of oversize and overweight vehicles and loads throughout the state to protect the safety and welfare of the traveling public. Industry can be assured that all Arizona regulations regarding oversize and overweight vehicles and loads are in alignment with most of the other western states and uniformly enforced.

**3. Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement:**

Name: John Lindley, Senior Rules Analyst  
Address: Arizona Department of Transportation  
Administrative Rules and Policy Development Office  
206 S. 17th Ave., Mail Drop 180A  
Phoenix, AZ 85007  
Telephone: (480) 267-6543  
E-mail: jlindley@azdot.gov

**B. Economic, small business and consumer impact statement**

**1. Identification of the proposed rulemaking:**

See paragraph (A)(1) above.

**2. Identification of persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking:**

Under this rulemaking, the agency identifies the following entities that may bear costs and receive benefits that may range from minimal to substantial:

<b>Persons to bear costs</b>	<b>Persons to directly benefit</b>
ADOT	ADOT
Arizona DPS	Arizona DPS
Political subdivisions that issue permits to oversize and overweight vehicles operating on local roadways other than the state highway system	Political subdivisions that issue permits to oversize and overweight vehicles operating on local roadways other than the state highway system
Arizona utility providers	Arizona utility providers
Commercial transporters requiring oversize and overweight permits	Commercial transporters requiring oversize and overweight permits
Escort vehicle services	Escort vehicle services
Businesses or consumers requiring movement of oversize and overweight loads	Businesses or consumers requiring movement of oversize and overweight loads
Private certified engineering companies	Private certified engineering companies
	Arizona's motoring public

**3. Analysis of costs and benefits occurring in this state:**

Cost-revenue scale. Annual costs or revenues are defined as follows:

- Minimal           \$9,999 or less
- Moderate        \$10,000 to \$499,999
- Substantial      \$500,000 or greater

<b>Group Affected</b>	<b>Increased Cost</b>	<b>Decreased Cost</b>
<b>Description of Effect</b>	<b>Decreased Revenue</b>	<b>Increased Revenue</b>
ADOT	Moderate for aggregate administrative and operating costs	Substantial for permit revenues and engineering analysis charges

<b>Group Affected</b>	<b>Increased Cost</b>	<b>Decreased Cost</b>
<b>Description of Effect</b>	<b>Decreased Revenue</b>	<b>Increased Revenue</b>
Arizona DPS	Non-quantifiable percentage of total enforcement duties statewide	Non-quantifiable percentage of total sanctions imposed but not specifically tracked for oversize and overweight transport-related citations
Political subdivisions that issue permits to oversize or overweight vehicles operating on local roadways other than the state highway system	Probably minimal, if any	Probably minimal, if any
Transporters requiring oversize and overweight permitting	Minimal to moderate depending on load dimensions, permit class, and peripheral transport costs	Minimal to moderate depending on load dimensions, permit class, and peripheral transport costs balanced against profit margin assessed to customer
Escort vehicle services	Assumed minimal to moderate depending on job order, trip distance, duration, equipment cost overhead	Minimal to moderate depending on charges to clients assumed to reflect job-scope-driven profit margin
Businesses or consumers requiring movement of oversize and overweight loads	Minimal to moderate depending on transporter-assessed charges	Assumed moderate to substantial, but not readily quantifiable depending on the business nature and intended transport purpose
Private certified engineering companies	Probably minimal administrative costs	Minimal to substantial depending on independent analysis charges assessed to client and number of new clients

<b>Group Affected</b>	<b>Increased Cost</b>	<b>Decreased Cost</b>
<b>Description of Effect</b>	<b>Decreased Revenue</b>	<b>Increased Revenue</b>
Arizona's motoring public	No direct cost	Not readily quantifiable in public safety and assured repair and maintenance cost avoidance to highway structures

**a. Probable costs and benefits to ADOT and other agencies directly affected by the implementation and enforcement of the proposed rulemaking:**

As a multi-modal transportation agency, the Arizona Department of Transportation is primarily responsible for planning, building, operating and maintaining a complex highway system. The Department also provides for the safe and efficient movement of people, goods, and services throughout the state, while promoting compliance with all applicable state and federal laws and regulations developed to protect and preserve all state and federal highway infrastructure under the jurisdiction of the Department. The Arizona Department of Public Safety assists the Department in performance of those duties, and both agencies endeavor to make Arizona highways safer for all motorists by:

Enforcing all motor carrier safety regulations;

Requiring all trucks of every weight and classification to be configured, maintained, and driven in ways that maximize public safety; and

Ensuring that all commercial motor vehicle owners, operators, and drivers comply with all applicable state and federal commercial motor vehicle safety regulations, weight laws, and driver qualification standards.

As indicated in Arizona's statewide Long-Range Transportation Plan, [What Moves You Arizona \(WMYA\) 2040](#):

ADOT is responsible for maintaining, operating, and improving 18,488 miles of the State Highway System. Although the State Highway System constitutes less than 10 percent of the total public roadway miles in Arizona, it carries 50 percent of the total traffic and nearly 90 percent of all the heavy truck traffic;

ADOT is also responsible for monitoring the conditions on all 7,826 bridges on state and local roads in Arizona, and for replacing, maintaining and preserving the 4,811 state-owned bridges that are part of the State Highway System; and

Arizona and the state of Sonora, Mexico share approximately 360 miles of international border. During 2014, more than \$437 billion worth of goods moved through the U.S.-Mexico border using trucks, rail and pipeline.

The Department of Public Safety, local law enforcement personnel, and certain members of Arizona’s trucking, heavy-haul transport, crane, utility, and escort vehicle industries, including the Arizona Trucking Association, the Specialized Carriers & Rigging Association, and Arizona’s business community may experience minimal costs for re-training any personnel involved with the application, issuance, and use of oversize and overweight envelope or special permits issued by the Department under these rules.

This rulemaking does not increase any fee currently required on application for an oversize or overweight envelope or special permit. In Calendar Year 2019, the Department generated \$4,854,485 by issuance of 82,093 oversize and overweight envelope and special permits for distribution to the Highway User Revenue Fund as prescribed under A.R.S. § 28-6533, and the State Highway Fund as prescribed under A.R.S. § 28-1105(A)(2). The Table below outlines the issuance counts and revenue collections for each type of oversize and overweight permit classification issued by the Department under these rules in Calendar Year 2019:

<b>Permit Classification</b>	<b>Permits Issued</b>	<b>Highway User Revenue Fund</b>
Envelope Permit (30-Day)	4	\$3,700
Envelope Permit (Annual)	1376	\$1,213,425
Envelope Permit Houseboat (Annual)	13	\$16,550
Class A (Single-Trip)	42859	\$1,329,795
Class A (30-Day)	13301	\$629,370
Class A Mobile Home (Single-Trip)	11155	\$164,925
Class A Western Regional (Single-Trip)	1	\$15
Class B (30-Day)	1138	\$34,110
Class B (Annual)	209	\$68,040
Class C (Single-Trip)	4451	\$331,325
Class C Mobile Home (Single-Trip)	2723	\$80,745
Class C Tridem Axle (Single-Trip)	1706	\$150,600

<b>Permit Classification</b>	<b>Permits Issued</b>	<b>Highway User Revenue Fund</b>
Class D (Single-Trip)	0	\$0
Class D (30-Day)	466	\$34,425
Class D (Annual)	227	\$125,400
Class E (Single-Trip)	12	\$825
Class E (30-Day)	831	\$61,350
Class E (Annual)	1535	\$606,480
Class G (Single-Trip)	12	\$180
Class G (30-Day)	1	\$30
Class G (Annual)	0	\$0
Class H (Annual)	73	\$3,195
<b>Totals</b>	<b>82,093</b>	<b>\$4,854,485</b>

The Department intends to begin collecting permit and trip data from all permittees or drivers using the new class C annual envelope permit with tridem axle group configurations as introduced under R17-6-505. The Department's traffic, bridge, pavement, and maintenance engineers will use the collected data to analyze and quantify infrastructure consumption costs associated with the extended use of tridem axle group configurations. Permittees and drivers subject to this new data collection requirement will be able to easily complete the required electronic notification process through the Department's website.

**Arizona Central Commercial Permits and Arizona Ports of Entry**

The Department issues oversize and overweight special permits statewide through its Arizona Central Commercial Permits office and Arizona ports of entry. Certain classes of permits not requiring special clearance conditions may be issued online through the Department's website or at any statewide port of entry. Port of entry budgetary expenditures pertaining to oversize and overweight permitting, however, cannot be specifically quantified because officers and equipment serve other functions besides issuing oversize and overweight permits. Ports of entry monitor all commercial traffic entering Arizona for registration, taxes, size and weight restrictions, commercial driver license requirements, insurance requirements and equipment safety requirements, and issue permits as required.

### **Class C Permits**

Although the Arizona Central Commercial Permits office and Arizona Ports of Entry issue oversize and overweight permits within specific size and weight thresholds, the Department's Class C Maintenance Permit Services is responsible for coordinating issuance of class C special permits for heavy-haul transport of specialized equipment (superloads) over class A permit limits. Class C Maintenance Permit Services technicians facilitate requests for engineering analysis of any route proposed by a permit applicant for superload transport, issue all appropriate clearances and highway restrictions, and communicate details of the transport operation to the permit holder and all appropriate field personnel.

Other Department employees spend periodic time on class C permits, though at a not-readily-quantifiable cost. These employees include the Assistant State Engineer, Deputy State Engineer, and regional traffic engineers for conflict resolution.

In Calendar Year 2019, there were 8,880 class C permits issued. Class C Maintenance Permit Services has two FTEs that participate in class C oversight, along with other job duties. Class C permit oversight includes performing structural analysis, axle-weight analysis, and route determination based on height, width, and length.

### **Bridge Group**

To maintain the integrity of Arizona highways and highway structures for the motoring public, the Department's Bridge Group is responsible for performing or reviewing an engineering analysis of any route proposed by a permit applicant for superload transport. Overweight vehicles can shorten the lifespan of some types of bridges. Repairs to highway structures can be a substantial cost to the Department, and indirectly to the general public. One example of a costly repair was in Phoenix at the Jefferson bridge on I-17, where an overweight vehicle caused damages costing \$80,000 to repair. A major portion of any repair work is for necessary traffic control.

For class C vehicles over the axle weight limits provided under R17-6-411, Tables 3.01 through 3.09, an engineering analysis must be performed. An engineer analyzes a bridge's characteristics to ensure that the overweight vehicle will not overstress or damage the bridge structure. Bridge engineers must examine the weight of each transporting vehicle per axle where the stress is applied to the highway structure, not necessarily the total weight of a vehicle and load. A registered engineer must perform the engineering analysis as part of the class C permit clearance for vehicles, or vehicles and loads, over 250,000 pounds, or traveling at a size or weight over bridge formula limits, or found by law enforcement with axle weights over the allowable bridge weights. The Bridge Group performs more than 100 engineering analyses per year for the oversize and overweight transport industry seeking class

C special permits. The Bridge Group currently has 2 FTEs that participate in this function, along with other job duties. The Bridge Group estimates its engineers spend an average of 2,080 hours each year to perform engineering analyses for these oversize and overweight special permit applications.

To recover some of the employee costs for performing or reviewing an engineering analysis, the Department charges a class C review and analysis fee of \$125 per 50-mile increment if performing the engineering analysis on a proposed route, or \$75 per 50-mile increment to review an engineering analysis of a proposed route prepared by a private registered engineer. If the Department is unable to dedicate the employee resources necessary to timely complete the required analysis, a permit applicant may obtain an analysis prepared by a private registered engineer at the applicant's own expense. Permit applicants pay the reduced amount when submitting an engineering analysis performed by a private registered engineer, since the Department's bridge engineers must verify any findings and conclusions presented by the analysis. A flat charge provides certainty for the industry who will know the amount of additional charges based on the mileage of the proposed route. Review and analysis fees are charged up front at the time of application but the permit fees are charged upon issuance of the permit. Collection up front ensures that ADOT is paid for performing the work even if the engineering analysis shows that a highway structure will not support an overweight vehicle as the requested, or the customer does not purchase the permit. The flat charge is easier for ADOT to process and staff will not have to track individually the amount of time spent on each engineering analysis or calculate the number of bridges to be crossed. ADOT may lose money on some of the engineering analyses performed since the flat charge is an average. Any monies received for performing an engineering analysis are deposited into the Highway User Revenue Fund.

#### **Arizona DPS**

Currently, DPS is the exclusive provider of law enforcement escorts for oversize and overweight special permitted vehicles traveling in Arizona. As demand for law enforcement escorts continues to rise, some oversize and overweight vehicle transporters have experienced unexpected and sometimes costly delays while having to adjust the timing of a scheduled transport to coincide with the availability of an appropriate number of law enforcement escorts. Although DPS has measures in place to accommodate a high number of oversize and overweight vehicles requiring law enforcement escorts, and ADOT has taken steps to reduce the number of routes that require law enforcement escorts, the oversize and overweight vehicle transport industry has experienced additional relief since DPS can now defer law enforcement escort duties to any uniformed certified law enforcement officer in a fully marked patrol vehicle as long as at least one officer is certified for enforcement of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation's Federal Motor Carrier Safety Administration. DPS must be contacted at least 12 hours before a scheduled transport. If DPS is unable

to provide the escorts requested, the permittee or driver may use uniformed certified law enforcement escorts who are qualified under R17-6-306.

DPS is responsible for statewide enforcement of state and federal transportation law. In so doing, a portion of their annual budgetary expenditure logically entails commercial motor vehicle enforcement. Under commercial motor vehicle enforcement, DPS performs the following functions that include oversize and overweight vehicle enforcement regulation:

- i. Patrolling,
- ii. Citing for violations,
- iii. Issuing out-of-service orders,
- iv. Investigating accidents,
- v. Internal officer training statewide,
- vi. Providing traffic control when required under terms of certain class C permits,
- vii. Performing necessary carrier audits, and
- viii. Tracking statewide motor carrier statistical data.

While ADOT is well aware that DPS performs all the functions listed, ADOT cannot quantify any of the items specifically for oversize and overweight vehicles because DPS does not track oversize and overweight vehicles separately in any of the categories. Oversize and overweight vehicles are simply combined with all other motor carriers. For that reason, DPS cannot supply ADOT with specific data concerning the economic impact of oversize and overweight vehicle enforcement to that agency.

**b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking:**

ADOT regulates the state highway system. Political subdivisions are able to further regulate oversize and overweight permitting on local roadways at their own discretion. To do so, from ADOT's perspective, would create non-quantifiable (probably minimal) administrative costs to the regulating political subdivision.

**c. Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rulemaking:**

This rulemaking brings the Department's rules into conformance with all applicable provisions prescribed under the federal ["Fixing America's Surface Transportation Act" or "FAST Act"](#) signed into law on December 4, 2015, which provided some level of regulatory relief for motor carriers trying to maintain compliance with federal regulations while operating certain types of commercial motor vehicles in interstate commerce. The Department is updating R17-6-102, Table 1, to reflect the new legal thresholds provided under the FAST Act and Laws 2016, Chapter 52, which:

- Increased the allowable length of a stinger-steered automobile or boat transporter from 75 feet to 80 feet and provided that up to four feet of front overhang and six feet of rear overhang on the automobile or boat transporter shall not be included when measuring the overall length of the vehicle and load for legal operation in interstate commerce as provided under 49 United States Code (U.S.C.) § 31111(a) and (b);
- Increased the allowable length of a towaway trailer transporter combination to 82 feet when operated on the Interstate Highway System;
- Clarified that a vehicle carrying fluid milk products is now deemed under 23 U.S.C. § 127(a) to be a load that cannot be easily dismantled or divided, and as such, is a “non-reducible load or vehicle” eligible for special permit issuance under A.R.S. § 28-1103 and these rules;
- Provided an exception from the existing 20,000 pound single axle load limit allowing an over-the-road bus to operate with a single axle load limit of up to 24,000 pounds without a special permit;
- Clarified the term “emergency response vehicle” as it relates to the “non-reducible load or vehicle” designation provided for oversize and overweight special permit issuance when traveling on the Interstate Highway System, to include vehicles loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, when being used for the purpose of spreading the material on highways that are or may become slick or icy;
- Increased the maximum gross vehicle weight allowance for natural gas and electric battery vehicles traveling on the Interstate Highway System by an amount equal to the difference between the weight attributable to the vehicle’s natural gas tank and fueling system or electric battery system and the weight of a comparable diesel tank and fueling system (up to 82,000 pounds) as provided under 23 U.S.C. § 127(s); and
- Clarified the special permit issuance process for commercial motor carriers using otherwise reducible overweight vehicles or vehicle and load combinations on the Interstate Highway System for delivering supplies and other relief during periods of national emergency.

The Department has determined that the benefits of these rules far outweigh the costs of the rules and anticipates that all affected businesses will experience an unquantifiable, but welcome, financial benefit as a result of the Department’s ability to issue special permits authorizing increased weight allowances on more routes for vehicles, or vehicle and load combinations, equipped with at least one tridem axle group configuration.

Additionally, this rulemaking supports appropriately scaled, sustainable, forest product industries currently working throughout the state to safeguard the health, safety, and welfare of visitors to the National Forests and any residents of the surrounding communities by reducing unnecessary fuel loads for the elimination of, or a significant reduction in, any future possibility of fueling devastating forest

fires. These industries strengthen local economies while conserving natural resources and aesthetic values across the state.

This rulemaking allows the Department to provide the sustainable forest product industry with a more cost-effective way to move or remove natural forest products or biomass in direct support of the Department's ongoing cooperative efforts with the U.S. Forest Service, the Arizona Department of Forestry and Fire Management, county officials, and Arizona cities and towns. These ongoing efforts help to mitigate the effects of wildfires, correct damages, and provide other improvements necessary for the successful management of forest health by making it easier for these businesses to engage in activities designed to:

- Increase forest resiliency and sustainability;
- Reduce risk of undesirable fire effects;
- Improve terrestrial and aquatic species habitats;
- Improve conditions and functionality of streams and springs;
- Restore woody riparian vegetation; and
- Preserve cultural resources.

All of these businesses play a key role in achieving the goals of Arizona's Four Forest Restoration Initiative by harvesting, processing, and selling wood products, thereby reducing treatment costs and providing additional economic opportunities.

Oversize and overweight transporting entities or persons:

*Under all permit classes other than class C:*

Costs imposed by the Department to the transporter are minimal per permit according to the fee schedules provided under A.R.S. § 28-1105 and 17 A.A.C. 6, Article 2. Oversize and overweight transporters do have a margin of time and scheduling inconvenience with the following:

- i. Urban transport curfew times in the Phoenix and Tucson metropolitan areas,
- ii. Weekend and holiday transport blackout times, or
- iii. Permanent highway restrictions as prescribed under R17-6-412, Table 4.

ADOT upholds the above restrictions not to impede commerce but to preserve general public safety and protect highway fixture structural integrity. However, qualified vehicles and loads remain eligible for night, weekend, and holiday movement on specified highways during specified hours. ADOT traffic engineers have determined that the specified highways should be able to tolerate oversize and overweight vehicles at the specified hours without unduly impeding the motoring public based on traffic patterns and highway design. All proposed restrictions considered, the agency is convinced that

the potential financial benefits to industry remain substantial for being able to deliver goods and services in a timely manner legally and safely under permit.

*Under Class C:*

Class C permitted vehicles are the largest, heaviest, and longest vehicles. Due to the time required for Department staff to ensure proper clearance for a vehicle and load, it may take a few days before a permit is issued. This can be a cost to industry if proper planning is not taken into account for time delays.

Only a class C permitted vehicle would be over axle weight and therefore require an engineering analysis. There is a possibility that ADOT would decline to perform an engineering analysis due to lack of employee resources, but this should happen only for an extremely overweight vehicle, such as described in the outlier example below. ADOT will not charge for another engineering analysis for an identical vehicle, load dimensions, and route, assuming no change to the highway or highway structures.

A class C permitted vehicle is more likely to require other costs due to its size, such as notifying and obtaining clearance from utility companies for overhead wires, ensuring clearance of all highway structures, or performing alteration or restoration of any damaged highway features. A class C permitted vehicle also is more likely to require escort vehicle accompaniment, which could include a requirement for law enforcement escort accompaniment by DPS or other law enforcement agencies. It could also incur additional costs for fuel or time delay due to alternative routing if the most direct route is not able to accommodate a vehicle of its size.

*Manufactured or mobile home transporters:*

Class A permits are issued within three hours of application and the Department maintains an electronic online permitting system as a convenience to customers applying for oversize and overweight permits in most permit classes. The online system provides for uniform treatment of industry transporters regardless of cargo type under transport.

The oversize and overweight transport industry has continuously, and successfully, challenged ADOT to re-evaluate all of its permitting rules, policies, and procedures to ensure that permitting decisions are scientifically based and uniformly administered throughout the state, rather than being made arbitrarily or somehow influenced by the personal opinions of permit technicians or field personnel.

**4. General description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking:**

The Department anticipates a minimal impact on public or private employment by this rulemaking. For the most part, the oversize and overweight permit function is in full operation with existing employees in government and private industry.

Private engineering firms could experience an increased work demand for analysis services if the Department is unable to perform an engineering analysis due to lack of resources.

**5. Statement of the probable impact of the proposed rulemaking on small businesses:**

**a. Identification of the small businesses subject to the proposed rulemaking:**

The small businesses subject to these rules, as defined under A.R.S. § 41-1001(20), with fewer than 100 employees or less than \$4 million annual receipts qualify as a small business:

- i. A motor carrier entity transporting oversize and overweight vehicles or loads,
- ii. An escort vehicle entity providing services to a motor carrier as a requirement of oversize or oversize and overweight permit issuance,
- iii. An enterprise that must secure services of an oversize and overweight carrier to deliver goods for which the enterprise must absorb total or partial transport costs, or
- iv. A private certified engineering firm performing highway structural analysis for a motor carrier that intends to procure an oversize and overweight permit under class C.

Escort vehicle services:

The agency estimates that escort vehicle services could benefit moderately to substantially over their presumed minimal costs of outfitting escort vehicles for safety compliance prescribed under R17-6-305.

Private engineering firms:

A private engineering firm providing analysis services to an applicant for an oversize and overweight permit could benefit minimally to substantially. Private engineering firms may have some increase in clients if the Department is unable to dedicate the employee resources necessary to timely complete a required engineering analysis. The agency cannot quantify potential costs to engineering firms, since any costs are part of an engineering firm's general overhead and not directly related to the requirements of this rulemaking. ADOT estimates that a private engineering firm charges approximately \$130 per hour for performing an engineering analysis.

Businesses requiring transport of oversize or overweight loads:

The agency cannot quantify transport industry costs passed on to customers. Neither the industry nor its customers are required to disclose transport costs to the Department. Transport costs would probably be minimal for repeat customers. For one-time or highly specialized projects, customer costs reach substantial amounts. Similarly, there may be delay-related costs passed-on to a customer but

these instances are also unpredictable and unquantifiable. The Department anticipates that the benefit to customers of oversize and overweight transporters is assumed to be moderate to substantial since transport of oversize and overweight loads is usually a high-profit business venture.

**b. Administrative and other costs required for compliance with the rulemaking:**

Uniform safety and compliance costs for small businesses are the same as discussed under paragraph (B)(3)(c) above. The Department anticipates no other new economic impact to persons and business entities as a result of this rulemaking.

Permit costs are minimal and permit fees are set by statute. Administrative costs for employee time and effort in making application and record keeping for oversize and overweight permits is probably a negligible percentage of a transport entity's office staff salary. Escalating permittee costs only arise in cases of class C permits requiring peripheral expenses to ensure safety to state highway structures, traffic control, or engineering analysis. These latter costs, however, are not expected to increase above current levels as a result of this rulemaking.

**c. Description of the methods that ADOT may use to reduce the impact on small businesses:**

The cost of permits and the permitting function is uniform regardless of business size. Moreover, permit costs themselves are minimal. The agency sees no opportunity to further reduce costs for small businesses. If a small transport-related business is contemplating a larger (class C) transport project, the business should be well aware of the peripheral costs associated with the project before embarking on such an endeavor.

In support of these necessary special permit issuance requirements, the Department currently maintains a modernized, mobile-friendly, Arizona 511 Traveler Information System website that uses the latest technology to provide a customized experience with real-time updates. The AZ511.gov website allows users to save their favorite routes and their most used traffic cameras. Before leaving for a destination, each permittee or driver is required under these rules to log on to AZ511.gov and review all incident alerts relative to their intended route, get estimated travel times to their destination, and receive information regarding any detours or alternate routes that may be necessary. A permittee or driver may set up automatic text or email alerts to receive real-time updates on any incidents that may affect transport along their intended route. A permittee or driver may also call the Department's 511 phone line to hear personalized updates. The 511 phone line is now easier to navigate and the voice recognition software has been upgraded.

**d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking:**

Persons not associated with the oversize and overweight transport industry incur no costs from the provisions of this Chapter. Generally, the benefit to the at-large motoring public of Arizona is assured

integrity of highway structure, minimized highway tax expenditure on repair and maintenance of structures spared from oversize and overweight vehicle collision or stress damage, and assurance that oversize and overweight loads are transporting authorized load dimensions, on authorized highways, at authorized times so as to minimize traffic delays. While the benefit to Arizona's motoring public is not readily quantifiable, it is in the best interest of Arizona citizens to have these regulations in effect to maximize overall safety for all highway users.

**6. Statement of the probable effect on state revenues:**

ADOT benefits by annual permit revenues as listed under (B)(3)(a). Arizona DPS experiences not-readily-quantifiable benefits from oversize and overweight transporter citation sanctions and charges assessed to carriers when DPS traffic control is required as special terms of a class C permit. This rulemaking does not increase fees for oversize or overweight permits.

**7. Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using non-selected alternatives:**

In rulemaking, the Department routinely adopts the least costly and least burdensome options for any process or procedure required of the regulated public or industry. See 5(c).

**C. Explanation of limitations of the data and the methods that were employed in the attempt to obtain the data and a characterization of the probable impacts in qualitative terms. The absence of adequate data, if explained in accordance with this subsection, shall not be grounds for a legal challenge to the sufficiency of the economic, small business and consumer impact statement:**

The primary limitation to precise assessment of economic data is the vast array of stakeholder business and private-interest users of oversize and overweight permits. Interstate oversize and overweight operators, for example, may have widely different economic interests or challenges transporting through Arizona in contrast with intrastate only operators. Recreational or watercraft vehicles present more economic burdens as far as time, scheduling, and viable competition for merchants or private owners. The wide range of peripheral expenses for analysis, clearance, traffic control, or possible highway structural security maintenance under class C defies adequate appraisal and discussion. Added to all the industry variables, the fact that industry's actual costs are confidential to the operating entity leaves the agency at a loss when attempting to present a thorough and true picture to a party interested in assessing the collected costs of operating under an oversize and overweight permit. Nevertheless, the agency assures interested business and public persons that the cost of individual oversize and overweight permits is minimal and will remain so. The agency must advise any person or business contemplating transport of unusual or extraordinary-sized loads to be thorough in obtaining estimates when contracting for transport costs from established and reliable transport contractors.

**TITLE 17. TRANSPORTATION**  
**CHAPTER 6. DEPARTMENT OF TRANSPORTATION**  
**OVERSIZE AND OVERWEIGHT SPECIAL PERMITS**

**General Authorizing Statutes, Specific Statutes, and Definitions of Terms**

**Authorizing Statutes**

**A.R.S. § 28-366. Director; rules**

The director shall adopt rules pursuant to title 41, chapter 6 as the director deems necessary for:

1. Collection of taxes and license fees.
2. Public safety and convenience.
3. Enforcement of the provisions of the laws the director administers or enforces.
4. The use of state highways and routes to prevent the abuse and unauthorized use of state highways and routes.

**A.R.S. § 28-1103. Excess size and weight special permits; definition**

A. Subject to section 28-1104, subsection E, on application in writing and for good cause, the director with respect to highways under the jurisdiction of the department and a local authority with respect to highways under its jurisdiction may issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this article or otherwise not in conformity with this chapter on any highway under the jurisdiction of the party granting the permit and for the maintenance of which the party is responsible.

B. A special permit may be issued for the movement of overdimensional and overweight loads that is subject to department rules for overdimensional and overweight loads. The director shall adopt rules for overdimensional and overweight loads. The director may establish fees to cover all or part of the cost of review and analysis of requests for overdimensional and overweight load permits. The department shall collect the fees, in addition to the special permit fee provided by this section or section 28-1105.

C. Subject to this section, the director or local authority may issue the following special permits that are valid for thirty days or one year and that may be limited by the director or local authority:

1. A special permit authorizing the applicant to transport a load by means of a truck-semitrailer, truck-trailer, truck tractor-semitrailer-semitrailer or truck tractor-semitrailer-trailer combination, if all of the following conditions are met:

- (a) The overall length of the cargo carrying unit of the vehicle combination does not exceed ninety-five feet.
- (b) The axle weight limitations are subject to sections 28-1099 and 28-1100.
- (c) The overall gross weight of the vehicle combination does not exceed one hundred twenty-nine thousand pounds.
- (d) The vehicle combination is traveling within twenty miles of the borders of this state and an adjacent state that allows such combinations of length and gross vehicle weight.

2. Except on the national intercity truck route network designated by the United States secretary of transportation as required by the surface transportation assistance act of 1982, a special permit authorizing the applicant to transport a load by means of a truck and two trailing units or a truck tractor, a semitrailer and two trailing units if all of the following conditions are met:

- (a) The overall length of the cargo carrying unit of the vehicle combination does not exceed ninety-five feet.
- (b) The axle weight limitations conform to sections 28-1099 and 28-1100.
- (c) The overall gross weight of the vehicle combination does not exceed one hundred twenty-three thousand five hundred pounds.
- (d) The vehicle combination is traveling on either:
  - (i) A state route or highway that is located within four miles of and extends to the border of this state and an adjacent state that allows vehicle combinations of a truck or a truck tractor-semitrailer and not more than two additional trailers or semitrailers.
  - (ii) A state route or highway that extends at least ten miles through an Indian reservation, does not cross the Colorado river and is located within twenty miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

3. On application in writing by an owner of a watercraft as defined in section 5-301 and on good cause shown, a special excess width permit for a fee of forty-five dollars for each watercraft covered by the permit that:

- (a) Authorizes the owner to move a vehicle loaded with the watercraft on a highway under the jurisdiction of the issuer if all of the following conditions exist:
  - (i) The total outside width of the vehicle and watercraft does not exceed ten feet.
  - (ii) The vehicle loaded with the watercraft is otherwise in conformity with the limitations prescribed by this chapter.
  - (iii) The watercraft is properly registered with the Arizona game and fish department.
- (b) Contains the watercraft registration number.

D. The director may issue a special excess width permit for the operation of a vehicle with a reducible load only if both:

- 1. The load exceeds the width limitation prescribed in section 28-1093.
- 2. The load does not exceed ten feet in width.

E. Subject to this section and on receipt of an application, the director or local authority shall issue a permit that is valid for thirty days or one year and that authorizes the commercial movement of recreational vehicles as defined in section 41-4001 that exceed the size restrictions prescribed in this article. There is no limit on the number of movements generated or the number of vehicles moved by the permittee under a permit issued pursuant to this subsection. Notwithstanding section 28-1104, additional permit requirements shall not be imposed on the commercial movement of these recreational vehicles if the recreational vehicles comply with section 28-1093, subsection D.

F. If a local authority issues permits pursuant to this section, the local authority shall adopt and enforce ordinances that are substantially identical to rules adopted by the department that relate to overdimensional or overweight

commercial vehicles, and the local authority may adopt ordinances relating to infrastructure restrictions, route restrictions and time-of-day restrictions. The local authority shall provide to the department in a timely manner in an electronic format prescribed by the director all current ordinances and rules of the local authority relating to the permits. The department shall:

1. Make the ordinances and rules available to the public in an electronic format.
2. Notify a local authority of any updates or changes to rules established by the department.

G. Before the adoption and enforcement of an ordinance by a local authority pursuant to subsection F of this section, the engineer or designated officer having jurisdiction over the highways within the local authority shall submit the proposed ordinance to the department and the department shall submit the proposed ordinance to the overdimensional permit council established by section 28-1150 for review.

H. The overdimensional permit council has ninety days after the date that the department receives the proposed ordinance pursuant to subsection G of this section to review the proposed ordinance for compliance with subsection F of this section. The proposed ordinance is deemed compliant if the overdimensional permit council does not act within ninety days as prescribed by this subsection. If the overdimensional permit council determines that the proposed ordinance does not comply with subsection F of this section, the overdimensional permit council shall notify the department of the noncompliance before the end of the ninety-day period. The department shall notify the engineer or designated officer with jurisdiction over highways of the local authority in writing within thirty days after the review and provide specific provisions and the council's reasons that the ordinance is not in compliance with subsection F of this section.

I. On receipt of written notification that the proposed ordinance is not in compliance with subsection F of this section, the local authority shall make changes as applicable. If the local authority accepts the overdimensional permit council's recommended changes, further review is not required. If the local authority makes any other substantial change to the ordinance after the overdimensional permit council's review the local authority shall resubmit the change to the department for review pursuant to subsection G of this section.

J. This section does not limit a local authority's power to restrict highway use pursuant to section 28-1106.

K. The department is immune from liability for providing to the public a local authority's ordinances or rules relating to permits issued by the local authority pursuant to this section if the department relies on the information submitted by the local authority in good faith.

L. For the purposes of this section, "cargo carrying unit" means any portion of a commercial motor vehicle combination used for the carrying of cargo, including a trailer, a semitrailer or the cargo carrying section of a single unit truck. Cargo carrying unit does not include the cab portion of a truck or truck tractor.

**A.R.S. § 28-1104. Issuance of special permits; rules**

A. The application for a special permit prescribed in section 28-1103 shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways for which the permit to operate is requested.

If the actual vehicle and load to be moved are subsequently of a lesser dimension or weight than that described on the permit, both of the following apply:

1. The director shall not require the operator to apply for a new permit or pay an additional fee.
2. The operator shall comply with all other conditions of the permit.

B. Subject to subsection E of this section and if the special permit is issued, the director or local authority may:

1. Establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated or otherwise limit or prescribe conditions of operation of the vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures.

2. Require an undertaking or any other security as deemed necessary to compensate for an injury to a roadway or road structure.

C. The special permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of an authority granting the permit. A person shall not violate any of the terms or conditions of the special permit.

D. The director shall adopt rules for the movement of equipment without a special permit for the purpose of repair or for local operation.

E. A permit shall not be issued pursuant to section 28-1103 for moving a mobile home unless the applicant provides evidence of payment of all applicable ad valorem taxes or a clearance from the assessor of the county in which the mobile home is located. The clearance is valid for not more than thirty days, and the assessor shall issue the clearance if the assessor determines that all fees and ad valorem taxes applicable to the mobile home pursuant to title 42 have been paid as of the date of application. This subsection does not limit the discretion of the director or local authority to deny an application for a permit for moving a mobile home for reasons other than nonpayment of ad valorem taxes.

**A.R.S. § 28-1105. Special permit fees**

A. Except as otherwise provided by law, the following fees are required:

1. Fifteen dollars for each special permit issued pursuant to section 28-1103 for excess size, except that a thirty dollar fee is required for each thirty day permit and a three hundred sixty dollar fee is required for each annual permit.

2. Except as provided in paragraph 4 of this subsection, seventy-five dollars for each permit and each thirty day permit issued pursuant to section 28-1103 for excess weight, except that a six hundred dollar fee is required for each annual permit. For commercial vehicles traveling through an international port of entry on a special single trip excess weight permit issued pursuant to section 28-1103, notwithstanding section 28-6538, each month the department shall allocate and the state treasurer shall distribute the seventy-five dollar special single trip permit fee collected pursuant to this paragraph as follows:

- (a) To the state highway fund established by section 28-6991, fifty per cent.

(b) To counties located in the twenty-five mile commercial border zone identified on the permit, twenty-five per cent.

(c) To incorporated cities and towns located in the twenty-five mile commercial border zone identified on the permit, twenty-five per cent. Revenues allocated to incorporated cities and towns pursuant to this subdivision shall be apportioned to each city or town on the basis that the population of each bears to the population of all cities and towns located in the twenty-five mile commercial border zone identified on the permit.

3. Except as provided in paragraph 4 of this subsection, for a permit requested for a motor vehicle or combination of vehicles that is in excess of both the size and weight permitted by this chapter, the amount of fees applicable for an excess weight permit.

4. For a vehicle combination described in section 28-1103, subsection C:

(a) Seventy-five dollars for each single trip or thirty-day permit issued for excess size and weight.

(b) Three hundred sixty dollars for each annual permit issued for excess size and weight up to one hundred twenty-three thousand five hundred pounds.

(c) Six hundred dollars for each annual permit issued for excess size and weight more than one hundred twenty-three thousand five hundred pounds and up to one hundred twenty-nine thousand pounds.

B. A fee is not required for a permit issued pursuant to section 28-1103 for the movement of vehicles or combinations of vehicles owned by the United States government, this state or a county, city or town.

C. If a special permit is required by the director and by one or more authorities to move a vehicle or combination of vehicles, the applicant for the permit or permits shall pay a permit fee only to the director and is not required to pay a permit fee to a local authority.

D. If a special permit is required by more than one local authority to move a vehicle or combination of vehicles and if the permit is not required by the director, the applicant shall pay a permit fee only to the local authority that has jurisdiction of the streets and highways where the movements of the vehicle or combination of vehicles originate.

**A.R.S. § 28-1111. Commercial and noncommercial vehicles and trailers; website publications**

A. In cooperation with the department of public safety, the department of transportation shall develop easily understandable publications of the laws, rules and department policies relating to commercial and noncommercial motor vehicles, trailers and vehicle combinations that contain the following:

1. Weight thresholds specifying the differences between commercial and noncommercial vehicles and vehicle combinations.

2. Equipment requirements for different weight classes of commercial and noncommercial vehicles and vehicle combinations.

3. Allowable vehicle combinations.

4. Other information the director deems necessary.

B. The department of transportation and the department of public safety shall jointly develop and publish on the website of each agency the information prescribed by subsection A no later than January 1, 2009.

**A.R.S. § 28-1149. Records; inspection**

- A. A permit holder shall maintain in this state for at least three years records and other data for all vehicles operated and cargo transported under an envelope permit.
- B. The director may prescribe uniform forms for the keeping of records and other data.
- C. During usual business hours or at any other time if needed to protect public safety, the permit holder shall allow department employees or state or local peace officers to inspect the permit holder's records and other data.

**A.R.S. § 28-5204. Administration and enforcement; rules**

- A. In the administration and enforcement of this chapter, the department of transportation shall adopt:
  - 1. Reasonable rules it deems proper governing the safety operations of motor carriers, including rules governing safety operations of motor carriers, shippers and vehicles transporting hazardous materials, hazardous substances or hazardous wastes and shall prescribe necessary forms. In determining reasonable rules, the department of transportation shall consider:
    - (a) The nature of the operations and regulation of public service corporations as defined in article XV, sections 2 and 10, Constitution of Arizona.
    - (b) Rules adopted by the director of environmental quality pursuant to section 49-855.
  - 2. Rules necessary to enforce and administer this chapter, including rules setting forth reasonable procedures to be followed in the enforcement of this chapter and rules adopting transporter safety standards for hazardous materials, hazardous substances and hazardous waste. In adopting the rules, the department shall consider, as evidence of generally accepted safety standards, the publications of the United States department of transportation and the environmental protection agency.
- B. Rules adopted by the department of transportation also apply to a manufacturer, shipper, motor carrier and driver.
- C. The department of public safety shall and a political subdivision may enforce this chapter and any rule adopted pursuant to this chapter by the department of transportation. A person acting for a political subdivision in enforcing this chapter is required to be certified by the department of public safety as qualified for the enforcement activities.
- D. The department may audit records and inspect vehicles that are subject to this chapter.

**A.R.S. § 28-7045. Director; state highway and route use; rules**

The director shall exercise complete and exclusive operational control and jurisdiction over the use of state highways and routes and adopt rules regarding the use as the director deems necessary to prevent the abuse and unauthorized use of these highways and routes.

**A.R.S. § 42-19157. Collection of delinquent taxes**

A. Except as otherwise prescribed by this article, if a person who is liable for paying tax under this article evades or is delinquent in paying the tax, the tax shall be collected in the manner and by the officers prescribed by this chapter for collecting delinquent taxes on personal property.

B. Notwithstanding any other law, for a mobile home for which an affidavit of affixture has not been recorded pursuant to section 42-15203, that is not placed on the real property roll and that is used as the owner's primary residence, the delinquent tax may be collected pursuant to subsection A of this section only after both of the following occur:

1. The tax has been delinquent for a period of one year.
2. The person liable for paying the tax has not redeemed the property within six months after the end of the one-year period prescribed in paragraph 1 of this subsection.

C. For delinquent tax report purposes, the county treasurer and the officers prescribed by this chapter shall use the method and procedures of identifying mobile homes as prescribed by the department of transportation.

**Implementing Statutes**

[A.R.S. Title 28, Chapter 3, Article 18](#)

[A.R.S. Title 28, Chapter 3, Article 19](#)

[Laws 2016, Ch. 128, § 91](#)

[23 CFR 658](#)

[23 U.S.C. § 127](#)

[49 U.S.C. §§ 31111, 31112, 31113, and 31114](#)

## **Definitions of Terms**

### **A.R.S. § 1-242. Standard time**

A. The standard time in Arizona shall be the solar time of the one hundred fifth meridian west of Greenwich, commonly known as standard mountain time.

B. This section shall not be construed to affect the standard time established by United States law governing the movements of common carriers engaged in interstate commerce or the time for performance of an act by an officer or department of the United States, as established by a statute, lawful order, rule or regulation of the United States or an agency thereof.

C. Notwithstanding any other provision of law to the contrary by the United States government relating to adoption of daylight saving time by all of the states, the state of Arizona elects to reject such time and elects to continue in force the terms of subsection A, relating to standard time in Arizona.

D. The rejection of daylight saving time as provided for in this section may be changed by future legislative action.

### **A.R.S. § 3-3401. Definitions**

In this chapter, unless the context otherwise requires:

1. "Area A" has the same meaning prescribed in section 49-541.
2. "Area B" has the same meaning prescribed in section 49-541.
3. "Area C" means that portion of Pinal county lying west of range 11 east, excluding that portion of the county lying within area A as defined in section 49-541 and that portion of the county within the jurisdiction of any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.
4. "Associate director" means the associate director of the division.
5. "Biodiesel" means a mono-alkyl ester that meets ASTM D6751.
6. "Biodiesel blend" means a motor fuel that is composed of biodiesel and diesel fuel and that is designated by the letter "B", followed by the numeric value of the volume percentage of biodiesel in the blend.
7. "Biofuel" means a solid, liquid or gaseous fuel that is derived from biomass and that can be used directly for heating or power or as a blend component in motor fuel.
8. "Biofuel blend" means a motor fuel that is composed of a biofuel, that is combined with a petroleum-based fuel and that is designated by the volume percentage of biofuel in the blend.
9. "Biomass" means biological material, such as plant or animal matter, excluding organic material that has been transformed by geological processes into substances such as coal or petroleum or derivatives thereof, that may be transformed into biofuel.
10. "Biomass-based diesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the United States environmental

protection agency under 42 United States Code 7545 and includes fuel derived from animal wastes, including poultry wastes and other waste materials, municipal solid waste and sludge and oil derived from wastewater and the treatment of wastewater. Biomass-based diesel does not include biodiesel.

11. "Biomass-based diesel blend" means a blend of petroleum-based diesel fuel with biomass-based diesel.

12. "Certification" means the process of determining the accuracy of a commercial device to the standards of this state by a registered service representative or the division.

13. "Commercial device" means any weighing, measuring, metering or counting device that is used to determine the direct cost of things sold or offered or exposed for sale, or used to establish a fee for service if the cost is based on weight, measure or count, except that it does not include those devices used for in-house packaging, inventory control or law enforcement purposes.

14. "Commodity" means any merchandise, product or substance produced or distributed for sale to or use by others.

15. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this chapter.

16. "Diesel fuel" means a refined middle distillate that is used as a fuel in a compression-ignition internal combustion engine and that meets the specifications of ASTM D975.

17. "Division" means the weights and measures services division of the department.

18. "Ethanol flex fuel" means a fuel ethanol gasoline blend that meets the specifications of ASTM D5798 standard specification for ethanol fuel blends for flexible-fuel automotive spark-ignition engines.

19. "Fleet owner" means a registered owner or lessee of at least twenty-five vehicles.

20. "Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than five one-hundredths grams of lead for each United States gallon, that is produced, refined, manufactured, blended, distilled or compounded from petroleum, natural gas, oil, shale oils or coal and other flammable liquids free from undissolved water, sediment or suspended matter, with or without additives, and that is commonly used as a fuel for spark-ignition internal combustion engines. Gasoline does not include diesel fuel or ethanol flex fuel.

21. "Gasoline provider" means any manufacturer of gasoline or any person who imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person who sells gasoline intended for ultimate consumption within a vehicle emissions control area. Gasoline provider does not mean a person with respect to a gasoline supplied or sold by the person to another person for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.

22. "Inspector" means a state official of the division.

23. "Liquid measuring device" means any meter, pump, tank, gauge or apparatus used for volumetrically determining the quantity of any internal combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

24. "Manufacturer's proving ground" means a facility whose sole purpose is to develop complete advanced vehicles for an automotive manufacturer.

25. "Misfuel" means the act of dispensing into the fuel tank of a motor vehicle a motor fuel that was not intended to be used in the engine of that motor vehicle.
26. "Motor fuel" means a petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, number one or number two diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blends, biofuel blends and ethanol flex fuels.
27. "Motor vehicle racing event" means a race that uses unlicensed vehicles designed and manufactured specifically for racing purposes and that is conducted on a public or private racecourse for the entertainment of the general public. Motor vehicle racing event includes practice, qualifying and demonstration laps conducted as part of the activities related to a motor vehicle race.
28. "Oxygenate" means any oxygen-containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, that may be used as a fuel or as a gasoline blending component and that is approved as a blending agent under the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).
29. "Oxygenated fuel" means an unleaded motor fuel blend that consists primarily of gasoline and at least one and one-half percent by weight of one or more oxygenates and that has been blended consistent with the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).
30. "Package" means any commodity enclosed in a container or wrapped in any manner in advance of sale in units suitable for either wholesale or retail trade.
31. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.
32. "Product transfer document" means any bill of lading, loading ticket, manifest, delivery receipt, invoice or other documentation used on any occasion when a person transfers custody or title of motor fuel other than when motor fuel is sold or dispensed at a service station or fleet vehicle fueling facility.
33. "Public weighmaster" means any person who is engaged in any of the following:
- (a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate intended to be accepted as an accurate weight on which a purchase or sale is to be based or on which a service fee is to be charged.
  - (b) The business of weighing for-hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.
34. "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.
35. "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and that has been issued a license by the division.

36. "Registered service representative" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and who has been issued a license by the division.
37. "Retail seller" means a person whose business purpose is to sell, expose or offer for sale or use any package or commodity by weight, measure or count.
38. "Secondary standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and that are used in the enforcement of weights and measures laws and rules.
39. "Supplier" means any person that imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person that sells gasoline intended for ultimate consumption within a vehicle emissions control area, except that supplier does not mean a person with respect to gasoline supplied or sold by the person to another for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.
40. "Vehicle emissions control area" means a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, or any portion of area B or C, except that such an area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.
41. "Weight" as used in connection with any commodity means net weight.
42. "Weights" or "measures", or both, means all weights, measures, meters or counters of every kind, instruments and devices for weighing, measuring, metering or counting and any appliance and accessories associated with any or all such instruments and devices.

#### **A.R.S. § 5-301. Definitions**

In this chapter, unless the context otherwise requires:

1. "Commercial motorized watercraft" means a motorized watercraft that carries passengers or property for a valuable consideration that is paid to the owner, charterer, operator or agent or to any other person interested in the watercraft.
2. "Commission" means the Arizona game and fish commission.
3. "Department" means the Arizona game and fish department.
4. "Documented watercraft" means any watercraft currently registered as a watercraft of the United States pursuant to 46 Code of Federal Regulations part 67.
5. "Domicile" means a person's true, fixed and permanent home and principal residence, proof of which may be demonstrated as prescribed by rules adopted by the commission.
6. "Motorboat" means any watercraft that is not more than sixty-five feet in length and that is propelled by machinery whether or not such machinery is the principal source of propulsion.
7. "Motorized watercraft" means any watercraft that is propelled by machinery whether or not the machinery is the principal source of propulsion.

8. "Nonresident" means a citizen of the United States or an alien person who is not domiciled in this state and who is not a resident as defined in this section.
9. "Operate" means to operate or be in actual physical control of a watercraft while on public waters.
10. "Operator" means a person who operates or is in actual physical control of a watercraft.
11. "Person" includes any individual, firm, corporation, partnership or association, and any agent, assignee, trustee, executor, receiver or representative thereof.
12. "Public waters" means any body of water that is publicly owned or that the public is permitted to use without permission of the owner upon which a motorized watercraft can be navigated, including that part of waters that is common to interstate boundaries and that is within the boundaries of this state.
13. "Resident" means a person who is either:
  - (a) A member of the armed forces of the United States on active duty and stationed in this state for a period of thirty days immediately before the date of application for a watercraft decal.
  - (b) A member of the armed forces of the United States on active duty and stationed in another state or another country and who lists this state as that member's home of record at the time of an application for a watercraft decal.
  - (c) Domiciled in this state for at least six consecutive months immediately before the date of the application for a watercraft decal and who does not claim residency for any purpose in any other state or country.
14. "Revocation" means invalidating the certificate of number, numbers and annual validation decals issued by the department to a watercraft and prohibiting the operation of the watercraft on the waters of this state during a period of noncompliance with this chapter.
15. "Sailboard" means any board of less than fifteen feet in length which is designed to be propelled by wind action upon a sail for navigation on the water by a person operating the board.
16. "Special anchorage area" means an area set aside and under the control of a federal, state or local governmental agency, or by a duly authorized marina operator or concessionaire for the mooring, anchoring or docking of watercraft.
17. "State of principal operation" means the state where a watercraft is primarily used, navigated or employed.
18. "Underway" means a watercraft that is not at anchor, is not made fast to the shore or is not aground.
19. "Undocumented watercraft" means any watercraft which does not have and is not required to have a valid marine document as a watercraft of the United States.
20. "Wakeless speed" means a speed that does not cause the watercraft to create a wake, but in no case in excess of five miles per hour.
21. "Watercraft" means any boat designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water, or as may be defined by rule of the commission.
22. "Waterway" means any body of water, public or private, upon which a watercraft can be navigated.

**A.R.S. § 28-101. Definitions**

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.
2. "Alcohol concentration" if expressed as a percentage means either:
  - (a) The number of grams of alcohol per one hundred milliliters of blood.
  - (b) The number of grams of alcohol per two hundred ten liters of breath.
3. "All-terrain vehicle" means either of the following:
  - (a) A motor vehicle that satisfies all of the following:
    - (i) Is designed primarily for recreational nonhighway all-terrain travel.
    - (ii) Is fifty or fewer inches in width.
    - (iii) Has an unladen weight of one thousand two hundred pounds or less.
    - (iv) Travels on three or more nonhighway tires.
    - (v) Is operated on a public highway.
  - (b) A recreational off-highway vehicle that satisfies all of the following:
    - (i) Is designed primarily for recreational nonhighway all-terrain travel.
    - (ii) Is eighty or fewer inches in width.
    - (iii) Has an unladen weight of two thousand five hundred pounds or less.
    - (iv) Travels on four or more nonhighway tires.
    - (v) Has a steering wheel for steering control.
    - (vi) Has a rollover protective structure.
    - (vii) Has an occupant retention system.
4. "Authorized emergency vehicle" means any of the following:
  - (a) A fire department vehicle.
  - (b) A police vehicle.
  - (c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.
  - (d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.
5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a fully or partially enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.
6. "Automated driving system" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether it is limited to a specific operational design domain.
7. "Automotive recycler" means a person that is engaged in the business of buying or acquiring a motor vehicle solely for the purpose of dismantling, selling or otherwise disposing of the parts or accessories and that removes parts for resale from six or more vehicles in a calendar year.

8. "Autonomous vehicle" means a motor vehicle that is equipped with an automated driving system.
9. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.
10. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:
  - (a) Two tandem wheels, either of which is more than sixteen inches in diameter.
  - (b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.
11. "Board" means the transportation board.
12. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.
13. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.
14. "Certificate of ownership" means a paper or an electronic record that is issued in another state or a foreign jurisdiction and that indicates ownership of a vehicle.
15. "Certificate of title" means a paper document or an electronic record that is issued by the department and that indicates ownership of a vehicle.
16. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.
17. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.
18. "Conviction" means:
  - (a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.
  - (b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
  - (c) A plea of guilty or no contest accepted by the court.
  - (d) The payment of a fine or court costs.
19. "County highway" means a public road that is constructed and maintained by a county.
20. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business and has paid fees pursuant to section 28-4302.
21. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.
22. "Digital network or software application" has the same meaning prescribed in section 28-9551.
23. "Director" means the director of the department of transportation.

24. "Drive" means to operate or be in actual physical control of a motor vehicle.
25. "Driver" means a person who drives or is in actual physical control of a vehicle.
26. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.
27. "Dynamic driving task":
- (a) Means all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic.
  - (b) Includes:
    - (i) Lateral vehicle motion control by steering.
    - (ii) Longitudinal motion control by acceleration and deceleration.
    - (iii) Monitoring the driving environment by object and event detection, recognition, classification and response preparation.
    - (iv) Object and event response execution.
    - (v) Maneuver planning.
    - (vi) Enhancing conspicuity by lighting, signaling and gesturing.
  - (c) Does not include strategic functions such as trip scheduling and selection of destinations and waypoints.
28. "Electric bicycle" means a bicycle or tricycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts and that meets the requirements of one of the following classes:
- (a) "Class 1 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.
  - (b) "Class 2 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that may be used exclusively to propel the bicycle or tricycle and that is not capable of providing assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.
  - (c) "Class 3 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty-eight miles per hour.
29. "Electric miniature scooter" means a device that:
- (a) Weighs less than thirty pounds.
  - (b) Has two or three wheels.
  - (c) Has handlebars.
  - (d) Has a floorboard on which a person may stand while riding.
  - (e) Is powered by an electric motor or human power, or both.
  - (f) Has a maximum speed that does not exceed ten miles per hour, with or without human propulsion, on a paved level surface.

30. "Electric personal assistive mobility device" means a self-balancing device with one wheel or two nontandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

31. "Electric standup scooter":

(a) Means a device that:

(i) Weighs less than seventy-five pounds.

(ii) Has two or three wheels.

(iii) Has handlebars.

(iv) Has a floorboard on which a person may stand while riding.

(v) Is powered by an electric motor or human power, or both.

(vi) Has a maximum speed that does not exceed twenty miles per hour, with or without human propulsion, on a paved level surface.

(b) Does not include an electric miniature scooter.

32. "Evidence" includes both of the following:

(a) A display on a wireless communication device of a department-generated driver license, nonoperating identification license, vehicle registration card or other official record of the department that is presented to a law enforcement officer or in a court or an administrative proceeding.

(b) An electronic or digital license plate authorized pursuant to section 28-364.

33. "Farm" means any lands primarily used for agriculture production.

34. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

35. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

36. "Fully autonomous vehicle" means an autonomous vehicle that is equipped with an automated driving system designed to function as a level four or five system under SAE J3016 and that may be designed to function either:

(a) Solely by use of the automated driving system.

(b) By a human driver when the automated driving system is not engaged.

37. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

38. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

39. "Human driver" means a natural person in the vehicle who performs in real time all or part of the dynamic driving task or achieves a minimal risk condition for the vehicle.

40. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

41. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

42. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in section 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

43. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

44. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

45. "Minimal risk condition":

(a) Means a condition to which a human driver or an automated driving system may bring a vehicle in order to reduce the risk of a crash when a given trip cannot or should not be completed.

(b) Includes bringing the vehicle to a complete stop.

46. "Moped" means a bicycle, not including an electric bicycle, an electric miniature scooter or an electric standup scooter, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

47. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, an electric miniature scooter, an electric standup scooter and a moped.

48. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower but does not include an electric bicycle, an electric miniature scooter or an electric standup scooter.

49. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

(a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle seats at least eight passengers, including the driver.

(d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.

(e) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

50. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a scrap vehicle, a personal delivery device, a personal mobile cargo carrying device, a motorized wheelchair, an electric personal assistive mobility device, an electric bicycle, an electric miniature scooter, an electric standup scooter or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that does not have handlebars and that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

51. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

52. "Neighborhood electric shuttle":

(a) Means a self-propelled electrically powered motor vehicle to which all of the following apply:

(i) The vehicle is emission free.

(ii) The vehicle has at least four wheels in contact with the ground.

(iii) The vehicle is capable of transporting at least eight passengers, including the driver.

(iv) The vehicle is a commercial motor vehicle as defined in section 28-5201.

(v) The vehicle is a vehicle for hire as defined in section 28-9501 and operates under a vehicle for hire company permit issued pursuant to section 28-9503.

(vi) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

(b) Includes a vehicle that meets the standards prescribed in subdivision (a) of this paragraph and that has been modified after market and not by the manufacturer to transport up to fifteen passengers, including the driver.

53. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

54. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

55. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

56. "Operational design domain":

(a) Means operating conditions under which a given automated driving system is specifically designed to function.

(b) Includes roadway types, speed range, environmental conditions, such as weather or time of day, and other domain constraints.

57. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

58. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

59. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For

the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

60. "Personal delivery device":

(a) Means a device that is both of the following:

(i) Manufactured for transporting cargo and goods in an area described in section 28-1225.

(ii) Equipped with automated driving technology, including software and hardware, that enables the operation of the device with the remote support and supervision of a human.

(b) Does not include a personal mobile cargo carrying device.

61. "Personal mobile cargo carrying device" means an electronically powered device that:

(a) Is operated primarily on sidewalks and within crosswalks and that is designed to transport property.

(b) Weighs less than eighty pounds, excluding cargo.

(c) Operates at a maximum speed of twelve miles per hour.

(d) Is equipped with technology to transport personal property with the active monitoring of a property owner and that is primarily designed to remain within twenty-five feet of the property owner.

(e) Is equipped with a braking system that when active or engaged enables the personal mobile cargo carrying device to come to a controlled stop.

62. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

63. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

64. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

65. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

66. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

67. "SAE J3016" means surface transportation recommended practice J3016 taxonomy and definitions for terms related to driving automation systems for on-road motor vehicles published by SAE international in June 2018.
68. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:
- (a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.
  - (b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.
69. "Scrap metal dealer" has the same meaning prescribed in section 44-1641.
70. "Scrap vehicle" has the same meaning prescribed in section 44-1641.
71. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.
72. "Single-axle tow dolly" means a nonvehicle device that is drawn by a motor vehicle, that is designed and used exclusively to transport another motor vehicle and on which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.
73. "State" means a state of the United States and the District of Columbia.
74. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.
75. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.
76. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.
77. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:
- (a) Does not primarily operate on a regular route or between specified places.
  - (b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.
78. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.
79. "Traffic survival school" means a school that is licensed pursuant to chapter 8, article 7.1 of this title and that offers educational sessions that are designed to improve the safety and habits of drivers and that are approved by the department.
80. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary front axle commonly

known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

81. "Transportation network company" has the same meaning prescribed in section 28-9551.

82. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

83. "Transportation network service" has the same meaning prescribed in section 28-9551.

84. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

85. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

86. "Vehicle":

(a) Means a device in, on or by which a person or property is or may be transported or drawn on a public highway.

(b) Does not include:

(i) Electric bicycles, electric miniature scooters, electric standup scooters and devices moved by human power.

(ii) Devices used exclusively on stationary rails or tracks.

(iii) Personal delivery devices.

(iv) Scrap vehicles.

(v) Personal mobile cargo carrying devices.

87. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

### **A.R.S. § 28-601. Definitions**

In this chapter, unless the context otherwise requires:

1. "Commercial motor vehicle" means a motor vehicle or combination of vehicles that is designed, used or maintained to transport passengers or property in the furtherance of a commercial enterprise, that is a commercial motor vehicle as defined in section 28-5201 and that is not exempt from gross weight fees as prescribed in section 28-5432, subsection B.

2. "Controlled access highway" means a highway, street or roadway to or from which owners or occupants of abutting lands and other persons have no legal right of access except at such points only and in the manner determined by the public authority that has jurisdiction over the highway, street or roadway.

3. "Crosswalk" means:

(a) That part of a roadway at an intersection included within the prolongations or connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface.

4. "Escort vehicle" means a vehicle that is required pursuant to rules adopted by the department to escort motor vehicles or combinations of vehicles that require issuance of a permit pursuant to article 18 or 19 of this chapter for operation on the highways of this state.

5. "Explosives" means any chemical compound, mixture or device that is commonly used or intended for the purpose of producing an explosion and that is defined in 49 Code of Federal Regulations part 173.

6. "Flammable liquid" means any liquid that has a flash point of less than one hundred degrees Fahrenheit and that is defined in 49 Code of Federal Regulations section 173.120.

7. "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

8. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict. If a highway includes two roadways thirty or more feet apart, each crossing of each roadway of the divided highway by an intersecting highway is a separate intersection. If the intersecting highway also includes two roadways thirty or more feet apart, each crossing of two roadways of the highways is a separate intersection.

9. "License" means any license, temporary instruction permit or temporary license issued under the laws of this state or any other state that pertain to the licensing of persons to operate motor vehicles.

10. "Low emission and energy efficient vehicle" means a vehicle that has been certified by the United States environmental protection agency administrator in accordance with 23 United States Code section 166 or that is part of a federally approved pilot program.

11. "Motorized wheelchair" means any self-propelled wheelchair that is used by a person for mobility.

12. "Official traffic control device" means any sign, signal, marking or device that is not inconsistent with this chapter and that is placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

13. "Park", if prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

14. "Photo enforcement system" means a device substantially consisting of a radar unit or sensor linked to a camera or other recording device that produces one or more photographs, microphotographs, videotapes or digital or other recorded images of a vehicle's license plate for the purpose of identifying violators of articles 3 and 6 of this chapter.

15. "Pneumatic tire" means a tire in which compressed air is designed to support the load.

16. "Pole trailer" means a vehicle that is all of the following:

(a) Without motive power.

(b) Designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle.

(c) Used ordinarily for transporting long or irregularly shaped loads such as poles, pipes or structural members capable generally of sustaining themselves as beams between the supporting connections.

17. "Police officer" means an officer authorized to direct or regulate traffic or make arrests for violations of traffic rules or other offenses.

18. "Private road or driveway" means a way or place that is in private ownership and that is used for vehicular travel by the owner and those persons who have express or implied permission from the owner but not by other persons.

19. "Railroad" means a carrier of persons or property on cars operated on stationary rails.

20. "Railroad sign or signal" means a sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

21. "Railroad train" means a steam engine or any electric or other motor that is with or without cars coupled to the steam engine or electric or other motor and that is operated on rails.

22. "Roadway" means that portion of a highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, roadway refers to any such roadway separately but not to all such roadways collectively.

23. "Safety zone" means the area or space that is both:

(a) Officially set apart within a roadway for the exclusive use of pedestrians.

(b) Protected or either marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

24. "Sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for the use of pedestrians.

25. "Stop", if required, means complete cessation from movement.

26. "Stop, stopping or standing", if prohibited, means any stopping or standing of an occupied or unoccupied vehicle, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control sign or signal.

27. "Through highway" means a highway or portion of a highway at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing and when stop signs are erected as provided in this chapter.

28. "Traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using a highway for purposes of travel.

29. "Traffic control signal" means a device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

30. "Truck" means a motor vehicle that is designed, used or maintained primarily for the transportation of property.

**A.R.S. § 28-1092. Reasonable access; definitions**

A. The department shall provide reasonable access to vehicles of legal size to and from terminals and service facilities within one road mile of the national network on highways within its jurisdiction.

B. The local authority shall provide reasonable access to vehicles of legal size to and from terminals and service facilities within one road mile of the national network on highways within its jurisdiction. The local authority shall provide the director with a list of routes or maps designating the highways on which reasonable access is denied by December 1, 1992. The local authority shall update the list annually beginning on December 31, 1993. The department shall consolidate and publish the list annually.

C. Except as otherwise provided by this title, the department or the local authority shall provide reasonable access to vehicles of legal size beyond one road mile of the national network on a route on highways within its jurisdiction if both of the following apply:

1. A test drive on the route or an application of a vehicle template to a plan of the route shows that vehicles of legal size can safely travel on the route.

2. The vehicles are of legal size.

D. The department and the local authority may deny reasonable access to or from the national network by a vehicle of legal size on highways within their jurisdiction as follows:

1. Reasonable access may be denied if access would result in a significant and clearly evident safety problem in relation to a vehicle of legal size.

2. For vehicles that are at least one hundred two inches wide, reasonable access may be denied on specific routes with lanes that are ten feet wide or less.

3. Reasonable access may be denied if denial is related to the specific configuration and resultant safety factor of the individual route, including structural hazards.

4. In denying reasonable access, the department or local authority shall not grant exceptions for categories, types or groups of routes.

E. A person shall submit a written request for reasonable access to the department if it concerns highways under its jurisdiction or to the local authority if it concerns highways under its jurisdiction. If a written request for reasonable access is not acted on within ninety days after receipt by the appropriate jurisdiction, reasonable access is approved. If a written request for reasonable access is denied by the department or the local authority, the person may appeal to the jurisdiction that denied access, and the jurisdiction shall issue a decision within ninety days. If the appeal is denied by the local jurisdiction, the person may request a review by the director of the denial of access.

F. The department shall design a uniform symbol that is an exception sign to convey information that access is denied. The department shall use the sign to indicate any point of exit from the national network that does not have a connecting state or local authority access route to terminals or service facilities.

G. The department or a local authority shall not require a person to obtain a permit for a vehicle of legal size or to pay a fee to gain reasonable access pursuant to this section.

H. For purposes of this section:

1. "National network" means the system of highways that is a part of any segment of the national system of interstate and defense highways or any other qualifying federal aid highway or state highway designated by the director as authorized by the surface transportation assistance act of 1982 (P.L. 97-424; 96 Stat. 2097) and designated pursuant to section 28-1093.
2. "Reasonable access" means providing the most reasonable and practical route available, including allowance for return of the vehicle to the national network on a route other than the route traveled to the terminal or service facility if it is feasible and more practical to follow the alternate route, unless allowing access would result in a significant and clearly evident safety problem.
3. "Service facility" means a facility that provides food, fuel, lodging, repairs or emergency medical care.
4. "Terminal" means a location where either:
  - (a) Freight originates, terminates or is handled in the transportation process.
  - (b) Commercial motor carriers maintain operating facilities.
5. "Vehicle of legal size" means a vehicle of a size that meets the limitations prescribed in section 28-1093, subsection C, section 28-1094 and section 28-1095, subsections A and B, subsection C, paragraphs 1, 2, 3 and 4 and subsection D.

**A.R.S. § 28-1093. Vehicle width; exceptions**

- A. Except as otherwise provided in subsections B and C of this section and section 28-627, the total outside width of a vehicle or the load on the vehicle shall not exceed eight feet.
- B. If pneumatic tires, in substitution for the same type or other type of tires, are placed on a vehicle in operation on July 1, 1950:
  1. The maximum width from the outside of one wheel and tire to the outside of the opposite wheel and tire shall not exceed eight feet six inches.
  2. The outside width of the body of the vehicle or the load on the vehicle shall not exceed eight feet.
- C. A person may operate a vehicle with a total width of the vehicle or the load on the vehicle of not more than one hundred two inches, exclusive of safety equipment, on:
  1. Any segment of the national system of interstate and defense highways.
  2. Any other qualifying federal aid highway.
  3. Any state highway, as designated by the director.
  4. Streets that are designated by a local authority as follows:
    - (a) The local authority may designate the streets by signage of the allowable streets or by maintenance of a map or list of allowable streets as approved by a resolution of the local authority.
    - (b) In designating the streets, the local authority shall consider any reasonable restriction including such safety restrictions as structural hazards and street width and any other safety factors identified by the local authority as a hazard to the motoring public.

5. A highway that reasonably accesses interstate system highways, federal aid highways or state highways from terminals and facilities that provide food, fuel, repairs and lodging or from emergency medical facilities.

D. Notwithstanding subsections A, B and C of this section, the total outside width of a noncommercial recreational vehicle as defined in section 41-4001 may be more than one hundred two inches if the excess width is attributable to recreational vehicle appurtenances that do not extend beyond the exterior rearview mirrors of the recreational vehicle or tow vehicle and the rearview mirrors only extend the distance necessary to provide the appropriate field of view for the vehicle before the appurtenances are attached. For the purposes of this subsection, "recreational vehicle appurtenance":

1. Includes:

(a) An awning and its support hardware.

(b) Any appendage that is intended to be an integral part of the recreational vehicle and that is installed by the manufacturer or dealer.

2. Does not include an item that is temporarily affixed or attached to the exterior of the recreational vehicle by the vehicle's operator for the purpose of transporting the item from one location to another location.

**A.R.S. § 28-1095. Vehicle length; exceptions; permits; rules; definitions**

A. A vehicle, including any load on the vehicle, shall not exceed a length of forty feet extreme overall dimension, including front and rear bumpers. This subsection does not apply to any of the following:

1. A semitrailer when used in combination with a truck or a truck tractor.

2. A truck that is equipped with a conveyor bed, that is used solely as a fiber and forage module mover and that does not exceed forty-eight feet in length.

3. An articulated bus or articulated trolley coach that does not exceed a length of sixty feet.

4. A bus that is not articulated and that does not exceed a length of forty-five feet.

5. A recreational vehicle, a power unit, a farm vehicle, a horse trailer or wheeled equipment as defined in section 28-2153 if used in combination with two units and if the combination does not exceed sixty-five feet in length.

6. A recreational vehicle as defined in section 41-4001, paragraph 33, subdivision (b) that does not exceed a length of forty-five feet.

B. A vehicle transporter may draw only one semitrailer. A combination of vehicles, excluding a vehicle transporter and the semitrailer it draws, that is coupled together shall not consist of more than two units, except that a truck or a truck tractor and semitrailer may draw either one trailer or a forklift.

C. The following restrictions apply:

1. The length of a semitrailer operating in a truck tractor-semitrailer combination or a truck tractor-semitrailer-forklift combination shall not exceed fifty-seven feet six inches.

2. The length of a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination shall not exceed twenty-eight feet six inches.

3. The length of a trailer operating in a truck-trailer combination shall not exceed twenty-eight feet six inches.

4. If the length of a semitrailer is more than fifty-three feet, the overall length of a truck tractor-semi-trailer combination shall not exceed sixty-five feet on all highways, except for the national intercity truck route network designated by the United States secretary of transportation as required by the surface transportation assistance act of 1982 or on a system of highways that is designated by a local authority. In designating the streets, the local authority shall consider any reasonable restriction including such safety restrictions as structural hazards and street width and any other safety factors identified by the local authority as a hazard to the motoring public.

5. A vehicle transporter and the semitrailer it draws shall not exceed a length of eighty feet with a front overhang of not more than four feet and a rear overhang of not more than six feet.

6. A truck-semi-trailer combination shall not exceed an overall length of sixty-five feet.

D. Subsection B and subsection C, paragraphs 1 through 6 of this section do not apply to damaged, disabled or abandoned vehicles or combinations of vehicles while being towed by a tow truck in compliance with section 28-1108.

E. Notwithstanding subsections B and C of this section, extensions of not more than three feet beyond the foremost part and six feet beyond the rear bed or body of a vehicle or combination of vehicles used to transport manufactured vehicles or fiber and forage shall not be included in measuring the length of the vehicle or combination of vehicles when loaded.

F. Pursuant to a permit issued pursuant to section 28-1103, a truck or a truck tractor-semi-trailer may draw not more than two additional trailers or semi-trailers. The department shall adopt rules governing the movement and safety of a combination of vehicles under this subsection and authorizing the issuance in advance of prepaid permits. The rules shall include the adoption of minimum speeds on grades, lighting, signing, identification and braking requirements and any other rules the department deems necessary. The permit issued pursuant to this subsection is limited to the following highways:

1. An interstate highway that connects with two states if both states allow such combinations of trailers or semi-trailers and if the interstate highway does not exceed forty miles between the connecting states.

2. A state route or highway that is located within four miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semi-trailers.

3. A state route or highway that extends at least ten miles through an Indian reservation, that does not cross the Colorado river and that is located within twenty miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semi-trailers.

G. Notwithstanding subsections B and C of this section:

1. A motor vehicle may draw one single-axle tow dolly on which a motor vehicle may be transported. A person shall secure the raised end of any motor vehicle being transported pursuant to this paragraph to the tow dolly by two separate chains, cables or equivalent devices adequate to prevent shifting or separation of the drawn vehicle and the tow dolly.

2. A truck or a truck tractor may draw a trailer or semi-trailer that does not exceed a length of fifty-seven feet only on an interstate highway or on a highway that is within ten miles of an interstate highway if the trailer or semi-trailer is

manufactured in this state and is traveling with or without a load from its place of manufacture to be delivered for use outside this state.

3. A recreational vehicle may pull two units if all of the following conditions are met:

(a) The middle unit is equipped with a fifth wheel and brakes. The middle unit may be a farm vehicle or a horse trailer and shall have a weight equal to or greater than the rear unit.

(b) If the rear unit has a gross weight of three thousand pounds or more, it is equipped with brakes.

(c) The total combined gross weight of the towed units does not exceed the manufacturer's stated gross vehicle weight of the towing unit.

4. A vehicle transporter may transport cargo or general freight on a backhaul in compliance with section 28-1100.

H. For the purposes of this section:

1. "Backhaul" means the return trip of a vehicle transporter carrying cargo or general freight over all or part of the same route.

2. "Farm vehicle" has the same meaning prescribed in section 28-2514.

3. "Recreational vehicle" means a motor vehicle that is designed and customarily used for private pleasure, including vehicles commonly called motor homes, pickup trucks with campers and pickup trucks with a fifth wheel trailing device.

#### **A.R.S. § 28-1099. Single axle load limit; exceptions**

A. The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed twenty thousand pounds, except that:

1. The director may issue a special permit pursuant to section 28-1103 for the purpose of moving road machinery that exceeds the maximum weight specified in this section from job to job within this state and from job to place of servicing and return within this state.

2. Any over-the-road bus may exceed the maximum single axle weight limit but shall not exceed twenty-four thousand pounds. For the purposes of this paragraph, "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

B. This section does not limit in any manner the power of the director and a local authority to issue a special permit pursuant to section 28-1103.

C. For the purposes of this article, the gross weight imposed on the highway by the wheels of any one axle equals the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

#### **A.R.S. § 28-1100. Vehicles and loads; gross weight restrictions; exceptions**

A. Except as provided in subsection H of this section or section 28-1099, a person may operate a vehicle on all highways, including a toll facility as defined in section 28-7751, subject to the following maximum gross weights:

1. Twenty thousand pounds, including enforcement tolerances, on any one axle.

2. Thirty-four thousand pounds, including enforcement tolerances, on a tandem axle.
3. Eighty thousand pounds on a vehicle combination of five axles or more.
4. On a group of two or more consecutive axles, including any steering or castering axles, an overall gross weight, including enforcement tolerances, produced by application of the following formula in which W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles to the nearest foot and N equals number of axles in any group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is thirty-six feet or more if the overall gross weight does not exceed eighty thousand pounds, including all enforcement tolerances:

$$W = 500 (LN/(N-1) + 12N + 36)$$

B. For the purposes of subsection A of this section, "tandem axles" means two or more consecutive axles that are more than forty inches but not more than ninety-six inches apart.

C. This section does not apply to a vehicle and load that cannot be easily dismantled or divided and that have been issued a special permit pursuant to section 28-1103.

D. It is not a defense in a prosecution for a violation of this section that a vehicle or vehicle combination is registered for a declared gross weight as defined in section 28-5431 in excess of the amount allowed under this section. The department shall not make an allowance or refund for fees paid for the weight in excess of the amount allowed under this section.

E. A single vehicle or a single vehicle of a combination of vehicles shall not be equipped with more than three axles, including the front steering axle, unless the additional axles are steering axles or castering axles. The limitation on the number of axles provided in this subsection does not apply to a vehicle operated with a permit issued pursuant to section 28-1103.

F. A vehicle or combination of vehicles equipped with one or more variable load axles shall have the pressure control preset and located outside of the cab so that the operator of the vehicle cannot vary the weight carried on the variable load axle or axles during transport of a load. The actuating control that raises or lowers the axle or axles may be located inside the cab for safety purposes. This actuating control must completely raise or completely lower the axle or axles when activated.

G. This section does not apply to a truck that meets all of the following requirements and for which a special permit has been issued pursuant to section 28-1103:

1. Is equipped with a conveyor bed.
2. Is used solely as a fiber and forage module mover.
3. Does not exceed forty-eight feet in length.
4. Is only operated each year from August 1 through January 30, unless the director extends the period of use.

H. The gross weight of a heavy-duty vehicle that is equipped with idle reduction technology and the gross weight imposed on the highway by the wheels of any one axle or axle group of the vehicle may exceed the weight limitation

specified in subsection A of this section by not more than five hundred fifty pounds or the weight of the idle reduction technology, whichever is less. This subsection only applies if the heavy-duty vehicle operator, on request, proves by written certification the weight of the idle reduction technology and, by demonstration or certification, that the idle reduction technology is fully functional at all times. For the purposes of this subsection, "heavy-duty vehicle" and "idle reduction technology" have the same meanings prescribed in 42 United States Code section 16104a.

I. The gross weight of a vehicle operated by an engine fueled primarily by natural gas, battery electric, or hydrogen and the gross weight imposed on the highway by the wheels of any one axle or axle group of the vehicle may exceed the weight limitation specified in subsection A of this section, but may not exceed eighty-two thousand pounds or an amount that is equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system or battery electric or hydrogen fuel cell electric fueling system and the weight of a comparable diesel tank and fueling system, whichever is less.

**A.R.S. § 28-1103. Excess size and weight special permits; definition**

A. Subject to section 28-1104, subsection E, on application in writing and for good cause, the director with respect to highways under the jurisdiction of the department and a local authority with respect to highways under its jurisdiction may issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this article or otherwise not in conformity with this chapter on any highway under the jurisdiction of the party granting the permit and for the maintenance of which the party is responsible.

B. A special permit may be issued for the movement of overdimensional and overweight loads that is subject to department rules for overdimensional and overweight loads. The director shall adopt rules for overdimensional and overweight loads. The director may establish fees to cover all or part of the cost of review and analysis of requests for overdimensional and overweight load permits. The department shall collect the fees, in addition to the special permit fee provided by this section or section 28-1105.

C. Subject to this section, the director or local authority may issue the following special permits that are valid for thirty days or one year and that may be limited by the director or local authority:

1. A special permit authorizing the applicant to transport a load by means of a truck-semitrailer, truck-trailer, truck tractor-semitrailer-semitrailer or truck tractor-semitrailer-trailer combination, if all of the following conditions are met:

(a) The overall length of the cargo carrying unit of the vehicle combination does not exceed ninety-five feet.

(b) The axle weight limitations are subject to sections 28-1099 and 28-1100.

(c) The overall gross weight of the vehicle combination does not exceed one hundred twenty-nine thousand pounds.

(d) The vehicle combination is traveling within twenty miles of the borders of this state and an adjacent state that allows such combinations of length and gross vehicle weight.

2. Except on the national intercity truck route network designated by the United States secretary of transportation as required by the surface transportation assistance act of 1982, a special permit authorizing the applicant to transport a load by means of a truck and two trailing units or a truck tractor, a semitrailer and two trailing units if all of the following conditions are met:

- (a) The overall length of the cargo carrying unit of the vehicle combination does not exceed ninety-five feet.
- (b) The axle weight limitations conform to sections 28-1099 and 28-1100.
- (c) The overall gross weight of the vehicle combination does not exceed one hundred twenty-three thousand five hundred pounds.
- (d) The vehicle combination is traveling on either:
  - (i) A state route or highway that is located within four miles of and extends to the border of this state and an adjacent state that allows vehicle combinations of a truck or a truck tractor-semitrailer and not more than two additional trailers or semitrailers.
  - (ii) A state route or highway that extends at least ten miles through an Indian reservation, does not cross the Colorado river and is located within twenty miles of and extends to the border of this state and an adjacent state that allows such combinations of trailers or semitrailers.

3. On application in writing by an owner of a watercraft as defined in section 5-301 and on good cause shown, a special excess width permit for a fee of forty-five dollars for each watercraft covered by the permit that:

- (a) Authorizes the owner to move a vehicle loaded with the watercraft on a highway under the jurisdiction of the issuer if all of the following conditions exist:
  - (i) The total outside width of the vehicle and watercraft does not exceed ten feet.
  - (ii) The vehicle loaded with the watercraft is otherwise in conformity with the limitations prescribed by this chapter.
  - (iii) The watercraft is properly registered with the Arizona game and fish department.
- (b) Contains the watercraft registration number.

D. The director may issue a special excess width permit for the operation of a vehicle with a reducible load only if both:

- 1. The load exceeds the width limitation prescribed in section 28-1093.
- 2. The load does not exceed ten feet in width.

E. Subject to this section and on receipt of an application, the director or local authority shall issue a permit that is valid for thirty days or one year and that authorizes the commercial movement of recreational vehicles as defined in section 41-4001 that exceed the size restrictions prescribed in this article. There is no limit on the number of movements generated or the number of vehicles moved by the permittee under a permit issued pursuant to this subsection. Notwithstanding section 28-1104, additional permit requirements shall not be imposed on the commercial movement of these recreational vehicles if the recreational vehicles comply with section 28-1093, subsection D.

F. If a local authority issues permits pursuant to this section, the local authority shall adopt and enforce ordinances that are substantially identical to rules adopted by the department that relate to overdimensional or overweight

commercial vehicles, and the local authority may adopt ordinances relating to infrastructure restrictions, route restrictions and time-of-day restrictions. The local authority shall provide to the department in a timely manner in an electronic format prescribed by the director all current ordinances and rules of the local authority relating to the permits. The department shall:

1. Make the ordinances and rules available to the public in an electronic format.

2. Notify a local authority of any updates or changes to rules established by the department.

G. Before the adoption and enforcement of an ordinance by a local authority pursuant to subsection F of this section, the engineer or designated officer having jurisdiction over the highways within the local authority shall submit the proposed ordinance to the department and the department shall submit the proposed ordinance to the overdimensional permit council established by section 28-1150 for review.

H. The overdimensional permit council has ninety days after the date that the department receives the proposed ordinance pursuant to subsection G of this section to review the proposed ordinance for compliance with subsection F of this section. The proposed ordinance is deemed compliant if the overdimensional permit council does not act within ninety days as prescribed by this subsection. If the overdimensional permit council determines that the proposed ordinance does not comply with subsection F of this section, the overdimensional permit council shall notify the department of the noncompliance before the end of the ninety-day period. The department shall notify the engineer or designated officer with jurisdiction over highways of the local authority in writing within thirty days after the review and provide specific provisions and the council's reasons that the ordinance is not in compliance with subsection F of this section.

I. On receipt of written notification that the proposed ordinance is not in compliance with subsection F of this section, the local authority shall make changes as applicable. If the local authority accepts the overdimensional permit council's recommended changes, further review is not required. If the local authority makes any other substantial change to the ordinance after the overdimensional permit council's review the local authority shall resubmit the change to the department for review pursuant to subsection G of this section.

J. This section does not limit a local authority's power to restrict highway use pursuant to section 28-1106.

K. The department is immune from liability for providing to the public a local authority's ordinances or rules relating to permits issued by the local authority pursuant to this section if the department relies on the information submitted by the local authority in good faith.

L. For the purposes of this section, "cargo carrying unit" means any portion of a commercial motor vehicle combination used for the carrying of cargo, including a trailer, a semitrailer or the cargo carrying section of a single unit truck. Cargo carrying unit does not include the cab portion of a truck or truck tractor.

**A.R.S. § 28-1104. Issuance of special permits; rules**

A. The application for a special permit prescribed in section 28-1103 shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways for which the permit to operate is requested.

If the actual vehicle and load to be moved are subsequently of a lesser dimension or weight than that described on the permit, both of the following apply:

1. The director shall not require the operator to apply for a new permit or pay an additional fee.

2. The operator shall comply with all other conditions of the permit.

B. Subject to subsection E of this section and if the special permit is issued, the director or local authority may:

1. Establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated or otherwise limit or prescribe conditions of operation of the vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures.

2. Require an undertaking or any other security as deemed necessary to compensate for an injury to a roadway or road structure.

C. The special permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of an authority granting the permit. A person shall not violate any of the terms or conditions of the special permit.

D. The director shall adopt rules for the movement of equipment without a special permit for the purpose of repair or for local operation.

E. A permit shall not be issued pursuant to section 28-1103 for moving a mobile home unless the applicant provides evidence of payment of all applicable ad valorem taxes or a clearance from the assessor of the county in which the mobile home is located. The clearance is valid for not more than thirty days, and the assessor shall issue the clearance if the assessor determines that all fees and ad valorem taxes applicable to the mobile home pursuant to title 42 have been paid as of the date of application. This subsection does not limit the discretion of the director or local authority to deny an application for a permit for moving a mobile home for reasons other than nonpayment of ad valorem taxes.

#### **A.R.S. § 28-1141. Definitions**

In this article, unless the context otherwise requires:

1. "Envelope" means the outermost dimensions of a load or vehicle to include width, height and length and the weight of the vehicle or its load.

2. "Envelope permit" means a permit issued by the department authorizing a person to transport property on the highways of this state pursuant to all applicable statutes and local ordinances and the terms listed on the permit.

3. "Power unit" means a vehicle that propels itself or tows a trailer or combination of vehicles on the highways of this state.

#### **A.R.S. § 28-1144. Issuing envelope permits; restrictions; requirements**

A. Except as provided in subsection D of this section, on approval of the application, the director may issue an envelope permit. The envelope permit for a nonspecific and nonreducible vehicle or cargo shall not authorize a

vehicle or a vehicle transporting cargo on a highway to exceed two hundred fifty thousand pounds gross weight, fourteen feet in width, sixteen feet in height and one hundred twenty feet in length.

B. The director may issue an envelope permit for a vehicle hauling a houseboat within a ten mile radius of a lake that is located in this state and the state of Utah and whose tributary is the Colorado River if the vehicle or load does not exceed one hundred fifty thousand pounds gross weight, sixteen and one-half feet in width, twenty-five feet in height and one hundred twenty feet in length. A person who operates a vehicle on a highway transporting a houseboat for which an envelope permit has been issued pursuant to this subsection must notify the department as prescribed by the director each time a vehicle hauls a houseboat as authorized by the envelope permit. A person who violates the notification requirement of this subsection subjects the envelope permit to immediate revocation by the department and must apply for a special permit prescribed in section 28-1103 in order to comply with article 18 of this chapter relating to vehicle size, weight and load. The director shall adopt rules, including establishing fees, for envelope permits for vehicles hauling houseboats pursuant to this subsection.

C. Except as provided in subsection D of this section, a vehicle for which an envelope permit is issued shall have at least three axles. Except for excess gross weight, excess width or length authorized by the envelope permit, a vehicle and cargo shall meet the requirements of statutes, rules and ordinances governing the movement of vehicles on highways and rules of local authorities.

D. On approval of the application, the director may issue an envelope permit for a vehicle with two axles that is transporting a nonspecific and nonreducible vehicle or cargo on a highway if the vehicle or vehicle transporting cargo does not exceed the applicable maximum gross weight limits as prescribed in section 28-1100, fourteen feet in width, sixteen feet in height and one hundred twenty feet in length.

E. A person who operates a vehicle on a highway transporting cargo for which an envelope permit has been issued and is required shall have a legible envelope permit in the person's immediate possession. The envelope permit is valid only if the power unit towing or transporting the cargo is listed on the permit. The operator shall display the envelope permit on demand of a peace officer.

F. A photocopy or facsimile of the envelope permit is not valid.

G. An envelope permit shall provide for the listing of any number of power units on the permit. A permit may be duplicated and modified to include the listing of additional power units at the time of initial application or later.

H. The director shall not issue an envelope permit for a vehicle or vehicle combination that transports cargo commonly known as a mobile or modular home.

#### **A.R.S. § 28-2001. Definitions**

A. "Resident", for the purpose of registration and operation of motor vehicles:

1. Except as provided by paragraph 2, means the following:

(a) A person who, regardless of domicile, remains in this state for an aggregate period of seven months or more during a calendar year.

(b) A person who engages in a trade, profession or occupation in this state or who accepts employment in other than either:

(i) Seasonal agricultural work.

(ii) Temporary seasonal work for a period of not more than three months if the state in which the temporary seasonal worker is permanently domiciled has a similar exception.

(c) A person who places children in a public school without payment of nonresident tuition.

(d) A person who declares that the person is a resident of this state for the purpose of obtaining at resident rates a state license or tuition fees at an educational institution maintained by public monies.

(e) An individual, partnership, company, firm, corporation or association that maintains a main office, a branch office or warehouse facilities in this state and that bases and operates motor vehicles in this state.

(f) An individual, partnership, company, firm, corporation or association that operates motor vehicles in intrastate transportation, for other than seasonal agricultural work.

(g) A person who is registered to vote in this state.

2. Does not mean:

(a) A nonresident owner of a foreign vehicle that is registered and licensed in a state adjoining this state and that is used in this state for other than the transportation of passengers or property for compensation, if the nonresident owner and vehicle are domiciled in an adjoining state but within twenty-five miles of the border of this state and if the state in which the owner resides and in which the vehicle is registered exempts from payment of registration and weight fees like vehicles from this state, regardless of whether the nonresident owner engages in a trade, profession or occupation in this state or accepts employment.

(b) An out-of-state student enrolled with seven or more semester hours regardless of whether the student engages in a trade, profession or occupation in this state or accepts employment in this state. For the purposes of this paragraph, "out-of-state student" means either:

(i) A person who is enrolled at an educational institution maintained by public monies and who is not classified as an in-state student under section 15-1802.

(ii) A person who is a student at a private educational institution and who would not be classified as an in-state student under section 15-1802 if the student were attending a public educational institution.

(c) A nonresident daily commuter as defined in section 28-2291.

B. In this chapter, unless the context otherwise requires:

1. "Mobile home" means a structure that is transportable in one or more sections, including the plumbing, heating, air conditioning and electrical systems that are contained in the structure, and that, when erected on site, is either of the following:

(a) More than eight body feet in width, thirty-two body feet or more in length and built on a permanent chassis.

(b) Regardless of the size, used as a single family dwelling or for commercial purposes with or without a permanent foundation.

2. "Serial number" means the number placed on the vehicle by its manufacturer or assigned pursuant to section 28-2165.

### **A.R.S. § 28-4301. Definitions**

In this chapter, unless the context otherwise requires:

1. "Area of responsibility" means the area surrounding an individual dealer that the factory designates as that dealer's individual primary geographic territory for the purpose of marketing, promoting, selling and leasing new motor vehicles. In the absence of the factory designated area, the area of responsibility is that geographical area surrounding a dealer that lies closer to that dealer than to other dealers of the same line-make.

2. "Branch license" means a license that is issued by the director to a licensed motor vehicle dealer and that permits the licensee to sell motor vehicles from an established place of business within the same county but other than the original or principal place of business for which the license was issued.

3. "Broker" means a person who for any fee, commission or other valuable consideration offers to provide, provides or represents that the person will provide a service of arranging or assisting in effecting the purchase of a motor vehicle and who is not:

(a) A new motor vehicle dealer or an employee or agent of a new motor vehicle dealer.

(b) A used motor vehicle dealer or an employee or agent of a used motor vehicle dealer.

(c) A manufacturer or employee or agent of a manufacturer.

(d) An auctioneer or engaged in the auto auction business.

(e) A wholesale motor vehicle dealer.

4. "Community" means the relevant market area. For the purposes of this paragraph, "relevant market area" means the incorporated city or town in which the franchise is located.

5. "Distributor" means a person who either:

(a) Sells or distributes new motor vehicles to new motor vehicle dealers in this state.

(b) Maintains distributor representatives in this state.

6. "Distributor branch" means a branch office maintained or availed of by a distributor for either:

(a) The sale of new motor vehicles to new motor vehicle dealers in this state.

(b) Directing or supervising its representatives in this state.

7. "Established place of business":

(a) Means a permanent enclosed building or structure that is owned either in fee or leased with sufficient space to display two or more motor vehicles of a kind and type that the dealer is licensed to sell and that is devoted principally to the use of a motor vehicle dealer in the conduct of the business of the dealer.

(b) In the case of a used motor vehicle dealer, trailer dealer or semitrailer dealer:

(i) Need not be a permanent building or structure or part of a permanent building or structure.

(ii) May be a vacant lot or part of a vacant lot.

(iii) Does not mean or include a residence, tent, temporary stand or temporary quarters or permanent quarters occupied pursuant to a temporary arrangement.

(c) In the case of an automotive recycler, means a permanent site or location at which the business of an automotive recycler is or will be conducted.

8. "Exhibitor" means a manufacturer of new motor homes that exhibits new motor homes at a special event.

9. "Factory branch" means a branch office maintained or availed of by a manufacturer for either:

(a) The sale of new motor vehicles to distributors or the sale of new motor vehicles to new motor vehicle dealers in this state.

(b) Directing or supervising its representatives in this state.

10. "Financial institution" means a bank, trust company, savings and loan association, credit union, consumer lender, international banking facility or holding company that is licensed, regulated or insured by the department of insurance and financial institutions, the federal deposit insurance corporation, the office of thrift supervision, the comptroller of the currency, the national credit union share insurance fund or the national credit union administration.

11. "Franchise" means a contract between two or more persons if all of the following conditions are included:

(a) A commercial relationship of definite duration or continuing indefinite duration is involved.

(b) The franchisee is granted the right to offer, sell and service in this state new motor vehicles manufactured or distributed by the franchisor.

(c) The franchisee, as a separate business, constitutes a component of the franchisor's distribution system.

(d) The operation of the franchisee's business is substantially associated with the franchisor's trademark, service mark, trade name, advertising or other commercial symbol designating the franchisor.

(e) The operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts and accessories.

12. "Franchisee" means a person who both:

(a) Receives new motor vehicles from the franchisor under a franchise.

(b) Offers and sells to and services new motor vehicles for the general public.

13. "Franchisor" means a person who both:

(a) Manufactures or distributes new motor vehicles.

(b) May enter into a franchise.

14. "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state.

15. "Lead" means any retail consumer who satisfies all of the following:

(a) Responds to a factory-directed program that obtains consumer contact information and that provides such information to one or more dealers.

(b) Expresses an interest to the factory in purchasing, leasing or acquiring any vehicle or product, service or financing available from the dealers of that factory.

(c) Does not qualify for any reasonable factory sponsored employee, retiree or vendor new vehicle purchase program or any other reasonable similar factory new vehicle purchase program.

16. "Line-make" means those motor vehicles that are offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer of those same motor vehicles.

17. "Major component part" includes a motor vehicle or vehicle part that the manufacturer has assigned any factory, motor, serial or other identification number or mark.

18. "Manufacturer" means any person who either:

(a) Manufactures or assembles new motor vehicles.

(b) Manufactures or installs on previously assembled truck chassis special bodies or equipment that when installed forms an integral part of the new motor vehicle and that constitutes a major manufacturing alteration, excluding the installation of a camper on a pickup truck.

19. "Motor home" means a motor vehicle that is primarily designed as temporary living quarters and that:

(a) Is built onto as an integral part of, or is permanently attached to, a motor vehicle chassis.

(b) Contains at least four of the following independent life support systems if each is permanently installed and designed to be removed only for purposes of repair or replacement:

(i) A cooking facility with an onboard fuel source.

(ii) A gas or electric refrigerator.

(iii) A toilet with exterior evacuation.

(iv) A heating or air conditioning system with an onboard power or fuel source separate from the vehicle engine.

(v) A potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection.

(vi) A 110-125 volt electric power supply.

20. "Motor vehicle" means an automobile, motor bus, motorcycle, truck or truck tractor or any other self-propelled vehicle, trailer or semitrailer.

21. "Motor vehicle dealer" means a new motor vehicle dealer, a used motor vehicle dealer, a public consignment auction dealer, a broker or a wholesale motor vehicle auction dealer, excluding a person who comes into possession of a motor vehicle as an incident to the person's regular business and who sells, auctions or exchanges the motor vehicle.

22. "New house trailer dealer" means a person who buys, sells, exchanges or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged in the business of selling, new house trailers or used house trailers taken in trade on new house trailers. For the purposes of this paragraph, "house trailer" means a vehicle, other than a motor vehicle, that is built on a chassis designed for being drawn on the highways by a motor vehicle and that is designed for human habitation.

23. "New motor vehicle" means a motor vehicle, other than a used motor vehicle, that is held either for:

(a) Sale by the franchisee who first acquired the vehicle from the manufacturer or distributor of the vehicle.

(b) Sale by another franchisee of the same line-make.

24. "New motor vehicle dealer" means a person who buys, sells, exchanges or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged in the business of selling, new motor vehicles or used motor vehicles taken in trade on new motor vehicles or used vehicles purchased for resale.
25. "Off-premises display and sales" means a promotion or sale of motor vehicles for a period of time as specified by the director that both:
- (a) Is sponsored by a licensed motor vehicle dealer, the licensed motor vehicle dealer's agents or the manufacturer.
  - (b) Takes place at a location within the same county but not at the licensee's established place of business.
26. "Off-premises exhibition" means the exhibition of a motor vehicle for a period of time as specified by the director at a location within the same county but not at the established place of business of a licensed motor vehicle dealer and at which a solicitation or sale does not occur.
27. "Provisional automotive recycler's license" means a license that both:
- (a) Is issued by the department only in conjunction with an application for an automotive recycler's license.
  - (b) Permits the applicant or applicants to conduct the business of an automotive recycler regulated by this chapter pending completion of the criminal records check pursuant to section 28-4361.
28. "Provisional dealer's license" means a license that both:
- (a) Is issued by the department only in conjunction with an application for a dealer's license.
  - (b) Permits the applicant or applicants to conduct the business of a motor vehicle dealer regulated by this chapter pending completion of the criminal records check pursuant to section 28-4361.
29. "Public consignment auction dealer" means a person who at the public consignment auction dealer's established place of business or at an authorized off-premises location pursuant to the requirements of section 28-4401 is in the business of both of the following:
- (a) Conducting live auctions with a licensed auctioneer verbally calling for and accepting bids.
  - (b) Providing live auction services to the public on a consignment contract basis.
30. "Retail consumer" means any person purchasing, leasing or acquiring or possibly purchasing, leasing or acquiring a vehicle or product, service or financing not for resale.
31. "Service" means any service that is sold, leased or provided to retail consumers and that directly relates to the ownership or leasing of a new or used motor vehicle, including extended service contracts or motor vehicle warranty and nonwarranty repairs or maintenance, including both parts and labor.
32. "Special event" means an exhibition of new motor homes by a motor vehicle dealer licensed to sell new motor homes or an exhibitor for a period of time specified by the director at a location in this state other than the licensee's or exhibitor's established place of business.
33. "Used motor vehicle" means a motor vehicle that has been sold, bargained, exchanged or given away or the title to the motor vehicle has been transferred from the person who first acquired the vehicle from the manufacturer, or importer, dealer or agent of the manufacturer or importer, and that has been placed in bona fide consumer use. For the purposes of this paragraph, "bona fide consumer use" means actual operation by an owner who acquired a new motor vehicle both:

(a) For use in the owner's business or for pleasure or otherwise.

(b) For which a certificate of title has been issued or that has been registered as provided by law.

34. "Used motor vehicle dealer" means a person, other than a new motor vehicle dealer, who buys, sells, auctions, exchanges or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged in the business of selling, seven or more used motor vehicles in a continuous twelve month period. Used motor vehicle dealer does not include a wholesale motor vehicle auction dealer or a public consignment auction dealer.

35. "Wholesale motor vehicle auction dealer" means a person who both:

(a) Is in the business of providing auction services solely in wholesale transactions to motor vehicle dealers licensed by this state or any other jurisdiction.

(b) Does not buy, sell or own the motor vehicles the auction dealer auctions in the ordinary course of business.

36. "Wholesale motor vehicle dealer" means a person who sells used motor vehicles only to licensed motor vehicle dealers.

#### **A.R.S. § 28-5201. Definitions**

In this chapter, unless the context otherwise requires:

1. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles that is designed, used or maintained to transport passengers or property in the furtherance of a commercial enterprise on a highway in this state, that is not exempt from the gross weight fees as prescribed in section 28-5432, subsection B and that includes any of the following:

(a) A single vehicle or combination of vehicles that has a gross vehicle weight rating of twenty-six thousand one or more pounds and that is used for the purposes of intrastate commerce.

(b) A single vehicle or combination of vehicles that has a gross vehicle weight rating of ten thousand one or more pounds and that is used for the purposes of interstate commerce.

(c) A school bus.

(d) A bus.

(e) A vehicle that transports passengers for hire and that has a design capacity for eight or more persons.

(f) A vehicle that is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials transportation authorization act of 1994 (49 United States Code sections 5101 through 5128) and that is required to be placarded under 49 Code of Federal Regulations section 172.504, as adopted by the department pursuant to this chapter.

2. "Declared gross weight" has the same meaning prescribed in section 28-5431. If a declaration has not been made, declared gross weight means gross weight.

3. "Gross weight" has the same meaning prescribed in section 28-5431.

4. "Hazardous material" means a substance that has been determined by the United States department of transportation under 49 Code of Federal Regulations to be capable of posing an unreasonable risk to health, safety and property if transported in commerce.

5. "Hazardous substance" means a material and its mixtures or solutions that has been determined by the United States department of transportation under 49 Code of Federal Regulations to be capable of posing an unreasonable risk to health, safety and property if transported in commerce.
6. "Hazardous waste" means a material that is subject to the hazardous waste manifest requirements of the department of environmental quality or the United States environmental protection agency.
7. "Manufacturer" means a person who transports or causes to be transported or shipped by a motor vehicle a material that is represented, marked, certified or sold by a person for transportation in commerce.
8. "Motor carrier" means a person who operates or causes to be operated a commercial motor vehicle on a public highway.
9. "Motor vehicle" means any vehicle, machine, truck tractor, trailer or semitrailer that is propelled or drawn by mechanical power and that is used on a public highway in the transportation of passengers or property in the furtherance of a commercial enterprise.
10. "Person" means a public or private corporation, company, partnership, firm, association or society of persons, the federal government and its departments or agencies, this state or any of its agencies, departments, political subdivisions, counties, towns or municipal corporations or a natural person.
11. "Public highway" means a public street, alley, road, highway or thoroughfare of any kind in this state that is used by the public or that is open to the use of the public as a matter of right, for the purpose of vehicular travel.
12. "Shipper" means a person who offers a material for motor vehicle transportation in commerce.
13. "Transportation" means a movement of person or property by a motor vehicle and any loading, unloading or storage incidental to the movement.
14. "Vehicle combination" has the same meaning prescribed in section 28-5431.

**A.R.S. § 28-5601. Definitions**

In this article and articles 2 and 5 of this chapter, unless the context otherwise requires:

1. "Blending":
  - (a) Means the mixing of one or more products, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, aircraft or watercraft.
  - (b) Does not include blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases.
2. "Bulk end user" means a person who receives into the person's own storage facilities in transport truck lots motor fuel for the person's own consumption.
3. "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.
4. "Bulk transfer" means any transfer of motor fuel from one location to another by pipeline tender or marine delivery within the bulk transfer terminal system.

5. "Bulk transfer terminal system" means the motor fuel distribution system consisting of refineries, pipelines, marine vessels and terminals. Motor fuel in a refinery, pipeline, vessel or terminal is in the bulk transfer terminal system. Motor fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck or other equipment suitable for ground transportation, is not in the bulk transfer terminal system.
6. "Consumer" means the end purchaser of motor vehicle fuel for use on the highways in this state, the end purchaser of motor vehicle fuel for use in watercraft on waterways of this state or the end purchaser of aviation fuel for use in aircraft.
7. "Destination state" means the state, territory or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container or a type of transportation equipment for the purpose of resale or use.
8. "Distributor" means a person who acquires motor fuel from a supplier or another distributor for subsequent sale or use and who may blend or import into or export from this state motor fuel in the original package or container or otherwise but excluding a person who imports motor fuel in the fuel tank of a motor vehicle or aircraft.
9. "Dyed diesel fuel" means diesel fuel that is dyed pursuant to United States internal revenue service regulations or requirements, including any invisible marker requirements.
10. "Fuel tank" means a receptacle on a motor vehicle, watercraft or aircraft from which fuel is supplied for the propulsion of the motor vehicle, watercraft or aircraft, excluding a cargo tank but including a separate compartment of a cargo tank used as a fuel tank and an auxiliary tank or receptacle of any kind from which fuel is supplied for the propulsion of the motor vehicle, watercraft or aircraft, whether or not the tank or receptacle is directly connected to the fuel supply line of the motor vehicle, watercraft or aircraft.
11. "Highway" means any way or place in this state of whatever nature that is maintained by public monies and that is open to the use of the public for purposes of vehicular travel, including a highway under construction.
12. "In this state" means any way or place within the exterior limits of the state of Arizona that is maintained by public monies, including any such way or place that is owned by or ceded to the United States of America.
13. "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of Indian tribes by treaty, law or executive order and that are currently recognized as Indian reservations by the United States department of the interior.
14. "Indian tribe" means any organized nation, tribe, band or community recognized as an Indian tribe by the United States department of the interior.
15. "Interstate user" means a person registering a use class motor vehicle under chapter 7, article 7 or 8 of this title or section 28-2321 or 28-2324.
16. "Invoiced gallons" means the gallons actually billed on an invoice in payment to a supplier.
17. "Light class motor vehicle" means a motor vehicle that uses use fuel on the highways in this state but excludes a road tractor, truck tractor, truck or passenger carrying vehicle having a declared gross vehicle weight of more than twenty-six thousand pounds or having more than two axles.
18. "Motor fuel" means motor vehicle fuel, use fuel and aviation fuel.

19. "Motor vehicle" means a self-propelled vehicle required to be licensed or subject to licensing for operation on a highway.

20. "Permissive supplier" means an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to this article.

21. "Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver or syndicate, this state, any county, city, town, district or other subdivision of this state, an Indian tribe, or any other group or combination acting as a unit.

22. "Position holder":

(a) Means the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. For the purposes of this subdivision, "a person who holds the inventory position in motor fuel" means a person who has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal.

(b) Includes a terminal operator who owns fuel in the terminal.

23. "Public monies" means those monies that are received by this state and that are derived all or in part from tax revenues or other funding sources.

24. "Qualified terminal" means a terminal that is designated as a qualified terminal pursuant to the United States internal revenue code, regulation and practices and that has been assigned a terminal control number by the United States internal revenue service.

25. "Rack" means a mechanism for delivering motor fuel from a refinery, a terminal or a bulk plant into a railroad tank car, a transport truck or other means of transfer that is outside the bulk transfer terminal system.

26. "Refiner" means any person who owns, operates or otherwise controls a refinery within the United States.

27. "Refinery" means a facility that is used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, transmix or other hydrocarbons or by blending and from which motor fuel may be removed by pipeline, by vessel or at a rack.

28. "Road tractor" means a motor vehicle that is designed and used for drawing other vehicles and that is not constructed to carry either a load independently or any part of the weight of a vehicle or load so drawn.

29. "Sell" includes a transfer of title or possession, exchange or barter in any manner or by any means.

30. "Supplier":

(a) Means a person who is registered pursuant to section 4101 of the United States internal revenue code for transactions in motor fuels in the bulk transfer terminal distribution system and who is one of the following:

(i) The position holder in a terminal or refinery in this state.

(ii) A person who imports motor fuel into this state from a foreign country.

(iii) A person who acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to a two party exchange.

(iv) The position holder in a terminal or refinery outside this state with respect to motor fuel that that person imports into this state on the account of that person.

(b) Includes a permissive supplier unless specifically provided otherwise. Supplier does not include a terminal operator merely because the terminal operator handles motor fuel consigned to the terminal operator within a terminal.

31. "Terminal" means a storage and distribution facility for motor fuel, which is supplied by pipeline or marine vessel, that is registered as a qualified terminal by the United States internal revenue service and from which motor fuel may be removed at a rack.

32. "Terminal bulk transfer" includes the following:

(a) A marine barge movement of motor fuel from a refinery or terminal to a terminal.

(b) Pipeline movements of motor fuel from a refinery or terminal to a terminal.

33. "Terminal operator" means any person who owns, operates or otherwise controls a terminal and who does not use a substantial portion of the motor fuel that is transferred through or stored in the terminal for the person's own use or consumption or in the manufacture of products other than motor fuel. A terminal operator may own the motor fuel that is transferred through or stored in the terminal.

34. "Transmix" means the buffer or interface between two different products in a pipeline shipment or a mix of two different products within a refinery or terminal that results in an off-grade mixture that is not usable or salable as motor fuel.

35. "Two party exchange" means a transaction:

(a) In which motor fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier.

(b) That includes a transfer from the person that holds the original inventory position for motor fuel in the terminal as reflected on the records of the terminal operator.

(c) That is simultaneous with removal from the terminal by the receiving exchange party.

(d) In which the terminal operator in the terminal operator's books and records treats the receiving exchange party as the supplier that removes the product across a terminal rack for purposes of reporting the events to the department.

36. "Use" includes the placing of fuel into any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the vehicle unless the operator of the vehicle establishes to the satisfaction of the director that the fuel was consumed for a purpose other than to propel a motor vehicle on a highway in this state and, with respect to fuel brought into this state in any such receptacle on a use class motor vehicle, the consumption of the fuel in this state. A person who places fuel in a receptacle on a use class motor vehicle of another is not deemed to have used the fuel.

37. "Use class motor vehicle" means a motor vehicle that uses use fuel on a highway in this state and that is a road tractor, truck tractor, truck or passenger carrying vehicle having a declared gross vehicle weight of more than twenty-six thousand pounds or having more than two axles.

38. "Use fuel" includes all gases and liquids used or suitable for use to propel motor vehicles, except fuels that are subject to the motor vehicle fuel tax imposed by this article.

39. "User" includes a person who, within the meaning of the term use as defined in this section, uses fuel in a use class motor vehicle.

40. "Vendor" includes a person who sells use fuel in this state and who places the fuel or causes the fuel to be placed into any receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion, including a service station dealer, a broker and a user who sells use fuel to others.

**A.R.S. § 41-4001. Definitions**

In this chapter, unless the context otherwise requires:

1. "Accessory structure" means the installation, assembly, connection or construction of any one-story habitable room, storage room, patio, porch, garage, carport, awning, skirting, retaining wall, evaporative cooler, refrigeration air conditioning system, solar system or wood decking attached to a new or used manufactured home, mobile home or residential single family factory-built building.
2. "Act" means the national manufactured housing construction and safety standards act of 1974 and title VI of the housing and community development act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557, 96-153 and 96-339).
3. "Alteration" means the replacement, addition, modification or removal of any equipment or installation after the sale by a manufacturer to a dealer or distributor but before the sale by a dealer to a purchaser, which may affect compliance with the standards, construction, fire safety, occupancy, plumbing or heat-producing or electrical system. Alteration does not mean the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle if the replaced item is of the same configuration and rating as the component or appliance being repaired or replaced. Alteration also does not mean the addition of an appliance requiring plug-in to an electrical receptacle if such appliance is not provided with the unit by the manufacturer and the rating of the appliance does not exceed the rating of the receptacle to which such appliance is connected.
4. "Board" means the board of manufactured housing.
5. "Broker" means any person who acts as an agent for the sale or exchange of a used manufactured home or mobile home except as exempted in section 41-4028.
6. "Certificate" means a numbered or serialized label or seal that is issued by the director as certification of compliance with this chapter.
7. "Closed construction" means any building, building component, assembly or system manufactured in such a manner that concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage or destruction.
8. "Commercial" means a building with a use-occupancy classification other than single-family dwelling.
9. "Component" means any part, material or appliance that is built-in as an integral part of the unit during the manufacturing process.
10. "Consumer" means either a purchaser or seller of a unit regulated by this chapter who utilizes the services of a person licensed by the department.

11. "Consummation of sale" means that a purchaser has received all goods and services that the dealer or broker agreed to provide at the time the contract was entered into, the transfer of title or the filing of an affidavit of affixture, if applicable, to the sale. Consummation of sale does not include warranties.
12. "Dealer" means any person who sells, exchanges, buys, offers or attempts to negotiate or acts as an agent for the sale or exchange of factory-built buildings, manufactured homes or mobile homes except as exempted in section 41-4028. A lease or rental agreement by which the user acquired ownership of the unit with or without additional remuneration is considered a sale under this chapter.
13. "Defect" means any defect in the performance, construction, components or material of a unit that renders the unit or any part of the unit unfit for the ordinary use for which it was intended.
14. "Department" means the Arizona department of housing.
15. "Director" means the director of the department.
16. "Earnest monies" means all monies given by a purchaser or a financial institution to a dealer or broker before consummation of the sale.
17. "Factory-built building":
  - (a) Means a residential or commercial building that is:
    - (i) Either wholly or in substantial part manufactured using closed construction at an off-site location and transported for installation or completion, or both, on-site.
    - (ii) Constructed in compliance with adopted codes, standards and procedures.
    - (iii) Installed temporarily or permanently.
  - (b) Does not include a manufactured home, recreational vehicle, panelized commercial building using open construction, panelized residential building using open or closed construction or domestic or light commercial storage building.
18. "HUD" means the United States department of housing and urban development.
19. "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.
20. "Installation" means:
  - (a) Connecting new or used mobile homes, manufactured homes or factory-built buildings to on-site utility terminals or repairing these utility connections.
  - (b) Placing new or used mobile homes, manufactured homes, accessory structures or factory-built buildings on foundation systems or repairing these foundation systems.
  - (c) Providing ground anchoring for new or used mobile homes or manufactured homes or repairing the ground anchoring.
21. "Installer" means any person who engages in the business of performing installations of manufactured homes, mobile homes or residential single family factory-built buildings.
22. "Installer of accessory structures" means any person who engages in the business of installing accessory structures.

23. "Listing agreement" means a document that contains the name and address of the seller, the year, manufacturer and serial number of the listed unit, the beginning and ending dates of the time period that the agreement is in force, the name of the lender and lien amount, if applicable, the price the seller is requesting for the unit, the commission to be paid to the licensee and the signatures of the sellers and the licensee who obtains the listing.
24. "Local enforcement agency" means a zoning or building department of a city, town or county or its agents.
25. "Manufactured home" means a structure built in accordance with the act.
26. "Manufacturer" means any person engaged in manufacturing, assembling or reconstructing any unit regulated by this chapter.
27. "Mobile home" means a structure built before June 15, 1976, on a permanent chassis, capable of being transported in one or more sections and designed to be used with or without a permanent foundation as a dwelling when connected to on-site utilities. Mobile home does not include recreational vehicles and factory-built buildings.
28. "Office" means the office of manufactured housing within the department.
29. "Open construction" means any building, building component, assembly or system manufactured in such a manner that all portions can be readily inspected at the building site without disassembly, damage or destruction.
30. "Purchaser" means a person purchasing a unit in good faith from a licensed dealer or broker for purposes other than resale.
31. "Qualifying party" means a person who is an owner, employee, corporate officer or partner of the licensed business and who has active and direct supervision of and responsibility for all operations of that licensed business.
32. "Reconstruction" means construction work performed for the purpose of restoration or modification of a unit by changing or adding structural components or electrical, plumbing or heat or air producing systems.
33. "Recreational vehicle" means a vehicular type unit that is:
- (a) A portable camping trailer mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfold for camping.
  - (b) A motor home designed to provide temporary living quarters for recreational, camping or travel use and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.
  - (c) A park trailer built on a single chassis, mounted on wheels and designed to be connected to utilities necessary for operation of installed fixtures and appliances and has a gross trailer area of not less than three hundred twenty square feet and not more than four hundred square feet when it is set up, except that it does not include fifth wheel trailers.
  - (d) A travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of a size or weight that may or may not require special highway movement permits when towed by a motorized vehicle and has a trailer area of less than three hundred twenty square feet. This subdivision includes fifth wheel trailers. If a unit requires a size or weight permit, it shall be manufactured to the standards for park trailers in a 119.5 of the American national standards institute code.
  - (e) A portable truck camper constructed to provide temporary living quarters for recreational, travel or camping use and consisting of a roof, floor and sides designed to be loaded onto and unloaded from the bed of a pickup truck.

34. "Residential" means a building with a use-occupancy classification of a single-family dwelling or as governed by the international residential code.
35. "Salesperson" means any person who, for a salary, commission or compensation of any kind, is employed by or acts on behalf of any dealer or broker of manufactured homes, mobile homes or factory-built buildings to sell, exchange, buy, offer or attempt to negotiate or act as an agent for the sale or exchange of an interest in a manufactured home, mobile home or factory-built building.
36. "Seller" means a natural person who enters into a listing agreement with a licensed dealer or broker for the purpose of resale.
37. "Site development" means the development of an area for the installation of the unit's or units' locations, parking, surface drainage, driveways, on-site utility terminals and property lines at a proposed construction site or area.
38. "Statutory agent" means a person who is on file with the corporation commission as the statutory agent.
39. "Title transfer" means a true copy of the application for title transfer that is stamped or validated by the appropriate government agency.
40. "Unit" means a manufactured home, mobile home, factory-built building or accessory structures.
41. "Used unit" means any unit that is regulated by this chapter and that has been sold, bargained, exchanged or given away from a purchaser who first acquired the unit that was titled in the name of such purchaser.
42. "Workmanship" means a minimum standard of construction or installation reflecting a journeyman quality of the work of the various trades.

[23 CFR 658.5](#)

[23 U.S.C. § 127](#)

[49 CFR 71.2](#)



Director's Office

Douglas A. Ducey, Governor  
John S. Halikowski, Director  
Scott Omer, Deputy Director for Operations  
Kevin Biesty, Deputy Director for Policy  
Dallas Hammit, Deputy Director for Transportation

August 31, 2015

Mr. Victor Riches  
Deputy Chief of Staff - Policy and Budget  
Office of the Governor  
1700 W. Washington St., 8th floor  
Phoenix, Arizona 85007

Dear Mr. Riches:

The Arizona Department of Transportation (ADOT) requests authorization to proceed with formal rulemaking to amend existing rules relating to the issuance and eligibility criteria for oversize and overweight special permits. On completion of ADOT's last extensive rulemaking effort, representatives of Arizona's crane and utility industries informed the Department that the new rule language could have the unintended consequence of eliminating a continuous travel allowance these industries were previously eligible for under the prior oversize permit rules. The Department has worked closely with industry representatives to implement an interim solution that is working well for industry, ADOT and the motoring public. However, the Department needs to better clarify the new rules to avoid any potential legal challenges or confusion on this important issue.

The necessary technical corrections and clarifications will ensure that a higher number of permittees and drivers of non-reducible self-propelled mobile cranes, drilling rigs, and similar specialty equipment with excessive front overhang retain limited eligibility for continuous travel throughout the state subject to existing curfew and holiday transport restrictions. Other necessary updates, technical corrections, and clarifications include incorporating:

- Allowances provided in Laws 2014, Chapter 60 (HB2430), to ease a regulatory burden on companies that operate longer combination vehicles along the northernmost 20-mile portion of the state while achieving the same regulatory objectives;
- Changes necessary for implementation of ADOT's new, dynamic online routing and permitting system now available for all oversize, overweight, and envelope permit application and issuance; and
- Technical corrections based on the latest edition of the Western Regional Agreement adopted by the Western Association of State Highway and Transportation Officials (WASHTO).

An exemption from the moratorium on rulemaking will allow the Department to accomplish the necessary technical corrections and provide the affected industries with additional clarification that will:

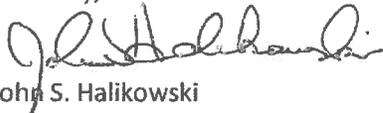
- Ease an unintended regulatory burden on the industry while achieving the same regulatory objective;
- Eliminate legal uncertainty and unnecessary or increased monetary or regulatory costs on employers; and

Mr. Victor Riches  
Deputy Chief of Staff - Policy and Budget  
August 31, 2015  
Page two

- Prevent any significant threat to public safety by preserving existing oversize and overweight curfew and holiday travel restrictions needed to assure the safety of the motoring public during peak travel times.

Thank you for your consideration of this request. If you have any questions, please contact me at (602) 712-7227.

Sincerely,



John S. Halikowski  
ADOT Director

Enclosure: Request for Rulemaking Exemption

## Request for Rulemaking Exemption

The Arizona Department of Transportation (ADOT) is requesting an exemption from the rulemaking moratorium to make technical corrections and provide additional clarification to avoid unnecessary confusion and potential legal challenges.

### Background

Arizona Revised Statutes (A.R.S.) Title 28, Chapter 3, Article 18, provides authority for the movement of oversize and overweight vehicles and loads throughout Arizona. A.R.S. § 28-7045 requires the ADOT Director to adopt rules regarding the use of state highways and routes as necessary to prevent the abuse and unauthorized use of state highways and routes.

### Reasoning for seeking the rule exemption

The Overdimensional Permit Council and members of the Specialized Carriers and Rigging Association have requested that the Department codify by rule its long-standing policy of allowing a limited continuous travel allowance for non-reducible self-propelled mobile cranes, drilling rigs, and similar specialty equipment with front overhang of over 3 feet in length, but not more than 10-feet in length.

While respecting existing curfew and holiday transport restrictions, ADOT's new dynamic online routing and permitting system can better facilitate the safe movement of non-reducible self-propelled mobile cranes, drilling rigs, and similar specialty equipment with excessive front overhang while maintaining the current level of safety for both industry and the motoring public. Additionally, the Department is now able to offer its industry partners the option of purchasing a 30-day oversize and overweight special permit specifically designed to facilitate the safe movement of these vehicles to and from the job site without having to purchase an annual oversize and overweight special permit.

Additional updates, technical corrections, and clarifications requested by the industry include:

- Incorporating the allowances recently provided in Laws 2014, Chapter 60, for companies that operate longer combination vehicles along the northernmost 20-mile portion of the state;
- Making technical corrections based on the latest edition of the Western Regional Agreement adopted by the Western Association of State Highway and Transportation Officials (WASHTO); and
- Indicating which oversize, overweight, and envelope special permit applications are now available for electronic processing through ADOT's new dynamic online routing and permitting system.

### Justification for the rule exemption

The necessary technical corrections and clarifications will ensure that a higher number of permittees and drivers of non-reducible self-propelled mobile cranes, drilling rigs, and similar specialty equipment with excessive front overhang retain limited eligibility for continuous travel throughout the state subject to existing curfew and holiday transport restrictions.

ADOT maintains a strong relationship with industry partners and an exemption from the moratorium on rulemaking will allow the Department to accomplish the necessary technical corrections and provide all affected industries with additional clarification that will:

- Eliminate legal uncertainty and unnecessary or increased monetary or regulatory costs on employers, by providing clarification of the allowable hours of movement for owners and operators of specialized vehicles and equipment;
- Ease an unintended regulatory burden on industry while achieving the same regulatory objective of ensuring the safe movement of these specialized vehicles and equipment before and after peak travel times; and
- Prevent any significant threat to public safety by preserving existing oversize and overweight curfew and holiday travel restrictions where necessary to ensure the safety of the motoring public during peak travel times.

---

**From:** Stacy Guillen  
**Sent:** Tuesday, September 22, 2015 2:36 PM  
**To:** John Lindley  
**Subject:** FW: Rulemaking Exemption Request

FYI

---

**From:** Rene Guillen [<mailto:rguillen@az.gov>]  
**Sent:** Friday, September 18, 2015 4:39 PM  
**To:** John Halikowski  
**Cc:** Stacy Guillen  
**Subject:** FW: Rulemaking Exemption Request

Director Halikowski,

I am approving the Arizona Department of Transportation's (ADOT) request for a rule making exemption to update ADOT's Oversize and Overweight permitting rules.

Thank you,

René Guillen Jr.  
Policy Advisor for Government and Transportation  
Office of Governor Doug Ducey  
Office: (602) 542-1256  
Cell: (602) 769-7504

---

**From:** Stacy Guillen [<mailto:SGuillen@azdot.gov>]  
**Sent:** Thursday, September 03, 2015 9:30 AM  
**To:** Victor Riches  
**Cc:** John Halikowski; Rene Guillen  
**Subject:** Rulemaking Exemption Request

Dear Victor,

Please find the attached letter requesting an exemption from Governor Ducey's rulemaking moratorium for the purpose of making several changes to ADOT's Oversize and Overweight permitting rules to benefit industry partners.

Please feel free to contact myself or Director Halikowski if you have any questions.

Thank you,

**Stacy Guillen**  
Special Advisor to the Director  
Government Relations  
206 S. 17<sup>th</sup> Ave, Room 192, MD 140A  
Phoenix, AZ 85007  
602.712.7679, Office  
[SGuillen@azdot.gov](mailto:SGuillen@azdot.gov)

Confidentiality and Nondisclosure Notice: This email transmission and any attachments are intended for use by the person(s)/entity(ies) named above and may contain confidential/privileged information. Any unauthorized use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact the sender by email, and delete or destroy all copies plus attachments.

January 10, 2022

Mr. Zach Harris  
Government and Transportation Policy Advisor  
Office of the Governor  
1700 W. Washington St.  
Phoenix, Arizona 85007

VIA EMAIL: zharris@az.gov

Dear Mr. Harris:

In accordance with Executive Order 2021-02, Paragraph 2, the Arizona Department of Transportation (ADOT) is seeking written final approval from the Office of the Governor to submit a formal Notice of Final Rulemaking to the Governor's Regulatory Review Council.

ADOT and the Overdimensional Permit Council have developed these rules in coordination with a broad coalition of public and private transportation stakeholder groups including the Department of Public Safety (DPS), local law enforcement personnel, Arizona's business community, the Arizona Trucking Association, the Specialized Carriers & Rigging Association and other members of Arizona's trucking, heavy-haul transport, crane, utility, and escort vehicle industries.

The Department received original approval from the Governor's Office to move forward with this rulemaking on September 18, 2015, and a subsequent verbal approval was provided by Ben Blink in July 2021. Close of record for this rulemaking was December 1, 2021, after the Department held an official oral proceeding and received no public comments. A comprehensive justification for the rulemaking is included in the Preamble (item 6) of the attached Notice of Final Rulemaking. No changes were made between the proposed rules and the final rules.

This rulemaking will address all of the following items for justification to proceed with rulemaking as outlined in the Governor's Executive Order 2021-02:

- Item (1)(a). To fulfill an objective related to economic development or economic expansion in this State. The rules support economic development and expansion in this State by providing a special continuous travel allowance to better accommodate the movement of wider self-propelled mobile cranes, drilling rigs, and similar specialty equipment with 10' in length of front overhang, and 10' in length of rear overhang. The rules also codify a special increased weight allowance for use by companies seeking to operate more equipment using three-axle (tridem) groups.

- Item (1)(b). To reduce or ameliorate a regulatory burden on the public, while achieving the same regulatory objective. The rules consolidate and rename several permit classes since the class A special permits can now accommodate all dimensions and permit options previously only available under separate permit classes.
- Item (1)(f). To comply with a new state statutory requirement. The rules add a class A annual permit option and a 30-day permit option as provided under Laws 2014, Ch. 60 (HB2430), to accommodate industry requests for expansion of the more desirable class A special permit. Additionally the rules update R17-6-102, Table 1, Threshold Dimensions, to reflect the higher legal thresholds provided under Laws 2016, Ch. 52 (HB2251), and the federal “Fixing America’s Surface Transportation Act” or “FAST Act”.

Thank you for your consideration of this request. If you have any questions, please contact me at (602) 712-7227.

Sincerely,



John S. Halikowski  
Director

Enclosures:

Notice of Final Rulemaking (136 pages)

Original Request for Rulemaking Exemption

Original Approval from the Governor’s Office



John Lindley &lt;jlindley@azdot.gov&gt;

---

**Fwd: Request: File Overweight and Overdimensional Rules with GRRC**

---

Jennifer Thomsen <jthomsen@azdot.gov>  
To: John Lindley <jlindley@azdot.gov>

Mon, Mar 14, 2022 at 3:10 PM

Hi John,

We have permission from the Governor's Office to file with GRRC.

Thanks!

----- Forwarded message -----

From: **Zachary Harris** <zharris@az.gov>  
Date: Mon, Mar 14, 2022 at 2:56 PM  
Subject: Re: Request: File Overweight and Overdimensional Rules with GRRC  
To: Jennifer Thomsen <jthomsen@azdot.gov>  
Cc: Katy Proctor <kproctor@azdot.gov>

Hey Jennifer and Katy,

ADOT is approved to file with GRRC.

Zach

On Wed, Jan 19, 2022 at 2:44 PM Jennifer Thomsen &lt;jthomsen@azdot.gov&gt; wrote:

Hi Zach,

Please find attached a letter from the Director requesting permission to file our Overweight and Overdimensional Rules package with GRRC. Also attached is the rules package, as well as our original exemption request and permission to proceed with rulemaking.

Putting together this rules package has been a *massive* undertaking that could not have been achieved without our ADOT experts and industry stakeholders, who worked together in partnership to update these highly detailed and complex rules. These rules were approved by the [Overdimensional Permit Council \(ODPC\)](#) in July of last year, illustrating the support for these updates from the trucking industry, law enforcement, and transportation professionals.

Please feel free to reach out with any questions - we are happy to meet with you.

Thanks!  
Jenny

--

**Jennifer Thomsen**  
**Rules and Policy Administrator**  
MD180A, Room 108  
206 S 17th Ave  
Phoenix, AZ 85007  
480.349.2409 cell  
[azdot.gov](mailto:azdot.gov)

--  
Thank you for your time.

Zachary Harris  
Senior Budget Analyst II  
Governor's Office of Strategic Planning and Budgeting  
Phone: 602-486-2455 | [zharris@az.gov](mailto:zharris@az.gov)

[Quoted text hidden]

**C-9**

**PEACE OFFICERS STANDARDS AND TRAINING BOARD**

Title 13, Chapter 4

**Amend:** R13-4-101, R13-4-103, R13-4-104, R13-4-105, R13-4-106, R13-4-110, R13-4-116,  
R13-4-117, R13-4-118, R13-4-201, R13-4-202, R13-4-203



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 14, 2022

**SUBJECT: PEACE OFFICERS STANDARDS AND TRAINING BOARD**  
Title 13, Chapter 4

**Amend:** R13-4-101, R13-4-103, R13-4-104, R13-4-105, R13-4-106,  
R13-4-110, R13-4-116, R13-4-117, R13-4-118, R13-4-201,  
R13-4-202, R13-4-203

---

### Summary:

This regular rulemaking from the Arizona Peace Officers Standards and Training Board (Board) seeks to amend twelve (12) rules in Title 13, Chapter 4, Articles 1 and 2. The rules in Article 1 relate to the qualifications, certification, and training of peace officers in Arizona and the rules in Article 2 relate specifically to the standards and training of correctional officers.

This rulemaking implements the Board's proposed course of action from its previous Five-Year Review Report (5YRR) which was approved by the Council in June 2021. Specifically, the Board is proposing the following changes:

- Clarify that "denial" of certification may be temporary or permanent;
- Remove "limited authority" as a class of peace officer certification;
- Change the term "outside provider" to "vendor" when referring to entities allowed to conduct training;

- Clarify the documentation necessary to show an individual attended a private high school;
- Add a cross reference to the definition of “illegal” regarding possession, production, cultivation, transportation, sale, or use of marijuana;
- Remove salvia from the list of hallucinogens because neither federal nor state law regulates it;
- Add a requirement that a hiring agency update any result of a background investigation that is more than a year old when an individual is appointed;
- Add a requirement for a background investigation when an individual is physically separated from an agency for misconduct for more than 30 days before being reinstated by the agency;
- Remove the requirement that a full-authority basic training course contain 585 hours;
- Clarify that waiver of training is available only for individuals who have functioned as a peace officer for at least a year;
- Clarify that reimbursement of training expenses is limited to the state-approved rate and excludes expenses for meals;
- Remove the requirement that an academy maintain a written application submitted by an applicant;
- Make Article 2 standards consistent with those in Article 1 regarding documentation of high school education and military service; and
- Remove the definition of “experimentation” regarding illegal use of marijuana, a dangerous drug, or narcotic in Article 2.

1. **Are the rules legal, consistent with legislative intent, and within the agency’s statutory authority?**

The Board cites both general and specific statutory authority for these rules.

2. **Do the rules establish a new fee or contain a fee increase?**

This rulemaking does not establish a new fee or contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Board did not review or rely on any study in conducting this rulemaking.

4. **Summary of the agency’s economic impact analysis:**

The rulemaking will affect peace officers, those who wish to be certified as peace officers, law enforcement agencies, academies, and the Board.

The Board has determined that amendments clarifying standards, making rules consistent with law, adjusting word choice, deleting obsolete provisions, and addressing other minor issues will have minimal economic impact. Amending the rules will make the Board’s rule consistent

with current industry practice, provide needed flexibility to adjust the hours devoted to each curriculum subject specified in R13-4-116, and protect the public. The Board currently has 34 individuals seeking certification who have engaged in potentially disqualifying conduct.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Board concluded no less intrusive or less costly alternative method existed to achieve the intended purpose of the rulemaking.

6. **What are the economic impacts on stakeholders?**

The rules are expected to benefit the Department of Corrections (Department) and the Department will be able to implement the rules with minimal cost. Political subdivisions that operate training academies that appoint certified peace officers, as well as peace officers themselves, will benefit from rule changes.

Because all basic training courses approved by the Board currently consist of more than 585 hours, removing the 585-hour requirement makes the Board's rule consistent with current industry practice.

Those who wish to be certified as peace officers will benefit from an amended definition of the word "denial," which gives the Board discretion regarding the appropriate response to potentially disqualifying behavior.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

The Board indicates that, in response to comments regarding the Notice of Proposed Rulemaking, the Board removed proposed amendments to R13-4-111 and R13-4-114 from this Notice of Final Rulemaking. The Board indicates that, after making some recommended changes, the Board will prepare a Notice of Supplemental Proposed Rulemaking that addresses R13-4-111 and R13-4-114.

Additionally, in anticipation of changes to be made in R13-4-111, the Board removed the word "continuing" from the definition of "vendor" in R13-4-101. The Board indicates, except for this small change, the rules remaining in this Notice of Final Rulemaking are unchanged from the Notice of Proposed Rulemaking.

8. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Board indicates stakeholders asked the Board to remove the distinction between continuing and proficiency training and to allow use of vendors to provide all training. The Board states this was to eliminate a source of confusion and provide flexibility to law

enforcement agencies. As outlined above, the Board indicates the modifications requested by stakeholders will be accomplished in a Notice of Supplemental Proposed Rulemaking focused on rules R13-4-111 and R13-4-114, which were removed from the current rulemaking.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Pursuant to A.R.S. § 41-1037(A), if an agency proposes a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization, the agency shall use a general permit, as defined by A.R.S. § 41-1001(11), if the facilities, activities or practices in the class are substantially similar in nature, unless certain exceptions are met.

The Board states certification of an individual as a peace officer or correctional officer is not a general permit as defined under A.R.S. § 41-1001. Here, the Board states a general permit is not technically feasible and would not meet the applicable statutory requirements for the certification of devices and personnel pursuant to A.R.S. § 41-1037(A)(3). Under A.R.S. § 41-1822(A) and (B), the Board is required to prescribe reasonable minimum qualifications for peace officers and correctional officers. The Board established those qualifications at R13-4-105, R13-4-109, and R13-4-202 and certifies only individuals who meet the prescribed qualifications.

The certifications issued by the Department fall within the exception of A.R.S. § 41-1037(A)(3). Therefore, the Department is in compliance with A.R.S. § 41-1037.

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Board states the rules are not more stringent than correspondence federal law. The Board indicates there are many federal laws that apply to law enforcement agencies and the work done by peace officers, including general laws such as OSHA, EEOC, and ADA, federal laws regarding crimes, and federal case law regarding law enforcement. The Board states training provided to peace officers is consistent with federal law.

**11. Conclusion**

The Board seeks to amend twelve (12) rules in Title 13, Chapter 4, Articles 1 and 2. The rules in Article 1 relate to the qualifications, certification, and training of peace officers in Arizona and the rules in Article 2 relate specifically to the standards and training of correctional officers. This rulemaking implements the Board's proposed course of action from its previous Five-Year Review Report (5YRR) which was approved by the Council in June 2021.

The Board is requesting an immediate effective date for the amendment of R13-4-101. The Board states this is because at the moment, the Board has approximately 34 cases pending denial of certification. The Board states, if the amendment of R13-4-101 is in effect, some of the denials may be temporary rather than permanent. The Board indicates this will have a major

economic impact for the individuals involved who may be able to reapply for certification as a peace officer. The Board states the immediate effective dates for R13-4-101 is consistent with A.R.S. § 41-1032(A)(5) because the amended definition is less stringent than the current definition and the change does not impact public health, safety, welfare, or the environment. Council staff believes the Board has provided an adequate basis for an immediate effective date.

The Board is requesting the standard 60-day delayed effective dates pursuant to A.R.S. § 41-1032(A) for R13-4-104, R13-4-106, R13-4-116 through R13-4-118, and R13-4-201 through R13-4-203.

Finally, the Board indicates, pursuant to A.R.S. § 41-1823, rules R4-13-103, R4-13-105, and R4-13-110 will be effective six months after the rule package is filed with the Office of the Secretary of State. A.R.S. § 41-1823(A) states, “[n]o minimum qualifications for law enforcement officers adopted pursuant to this article shall be effective until six months after they have been filed with the secretary of state pursuant to section 41-1031.”

Council staff recommends approval of this rulemaking.



# Arizona Peace Officer Standards and Training Board

2643 East University Drive Phoenix, Arizona 85034-6914 Phone (602) 223-2514

February 17, 2022

Ms. Nicole Sornsin, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 13. Public Safety  
Chapter 4. Arizona Peace Officer Standards and Training Board**

Dear Ms. Sornsin:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

- A. Close of record date: The rulemaking record was closed on February 10, 2022, following a period for public comment and an oral proceeding. This rule package is being submitted within the 120 days provided by A.R.S. § 41-1024(B).

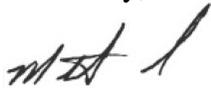
An exemption for this rulemaking from Executive Order 2021-02 was provided by Megan Fitzgerald of the Governor's Office by e-mail dated May 13, 2021. Ms. Fitzgerald authorized submission of the rule package to the Council in an e-mail dated February 16, 2022.

- B. Relation of the rulemaking to a five-year-review report: The rulemaking relates to a five-year-review report approved by the Council on June 1, 2021.
- C. New fee: The rulemaking does not establish a new fee.
- D. Fee increase: The rulemaking does not increase an existing fee.
- E. Immediate effective date: The Board respectfully requests an immediate effective date for the amendment of R13-4-101. An immediate effective date for the amendment of R13-4-101 is requested because at the moment, the Board has approximately 34 cases pending denial of certification. If the amendment of R13-4-101 is in effect, some of the denials may be temporary rather than permanent. This will have major economic impact for the individuals involved who may be able to reapply for certification as a peace officer. The immediate effect of R13-4-101 is consistent with A.R.S. § 41-1032(A)(5) because the amended definition is less stringent than the current definition and the change does not impact public health, safety, welfare, or the environment.

Under A.R.S. § 41-1823, R4-13-103, R4-13-105, and R4-13-110 will be effective six months after this notice is filed with the Office of the Secretary of State.

- F. Certification regarding studies: I certify that the preamble accurately discloses the Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.
- G. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that none of the rules in this rulemaking will require a state agency to employ a new full-time employee. No notification was provided to JLBC.
- H. List of documents enclosed:
1. Cover letter signed by the Executive Director;
  2. Notice of Final Rulemaking including the preamble, table of contents, and rule text;
  3. Economic, Small Business, and Consumer Impact Statement

Sincerely,



Matt Giordano  
Executive Director

**NOTICE OF FINAL RULEMAKING**  
**TITLE 13. PUBLIC SAFETY**  
**CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD**

**PREAMBLE**

**1. Articles, Parts, and Sections Affected**

**Rulemaking Action**

R13-4-101	Amend
R13-4-103	Amend
R13-4-104	Amend
R13-4-105	Amend
R13-4-106	Amend
R13-4-110	Amend
R13-4-116	Amend
R13-4-117	Amend
R13-4-118	Amend
R13-4-201	Amend
R13-4-202	Amend
R13-4-203	Amend

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

Authorizing statute: A.R.S. § 41-1822(A)

Implementing statute: A.R.S. §§ 41-1822(A) and (B) and 41-1823(B)

**3. The effective date for the rules:**

The Board respectfully requests an immediate effective date for the amendment of R13-4-101.

Under A.R.S. § 41-1032(A), R13-4-104, R13-4-106, R13-4-116 through R13-4-118, and R13-4-201 through R13-4-203 will be effective 60 days after the rule package is filed with the Office of the Secretary of State.

Under A.R.S. § 41-1823, R4-13-103, R4-13-105, and R4-13-110 will be effective six months after the rule package is filed with the Office of the Secretary of State.

**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 for the amendment of R13-4-101 is requested because at the moment, the Board has approximately 34 cases pending denial of certification. If the amendment of R13-4-101 is in effect, some of the denials may be temporary rather than permanent. This will have major economic impact for the individuals involved who may be able to reapply for certification as a peace officer. The immediate effect of R13-4-101 is consistent with A.R.S. § 41-1032(A)(5) because the amended definition is less stringent than the current definition and the change does not impact public health, safety, welfare, or the environment.

**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):**

Under A.R.S. § 41-1823, R4-13-103, R4-13-105, and R4-13-110 will be effective six months after this notice is filed with the Office of the Secretary of State.

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

Notice of Rulemaking Docket Opening: 27 A.A.R. 1591, October 1, 2021

Notice of Proposed Rulemaking: 27 A.A.R. 2949, December 24, 2021

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

Name: Michael Giammarino, Program Administrator

Address: 2643 E. University Drive  
Phoenix, AZ 85034

Telephone: 602-223-2514

E-mail: mikeg@azpost.gov

Web site: azpost.gov

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

Consistent with issues identified in the Board's five-year-review report approved by the Council on June 1, 2021, the Board is making the following changes:

- Clarify that "denial" of certification may be temporary or permanent;
- Remove "limited authority" as a class of peace officer certification;

- Change the term “outside provider” to “vendor” when referring to entities allowed to conduct training;
- Clarify the documentation necessary to show an individual attended a private high school;
- Add a cross reference to the definition of “illegal” regarding possession, production, cultivation, transportation, sale, or use of marijuana;
- Remove salvia from the list of hallucinogens because neither federal nor state law regulates it;
- Add a requirement that a hiring agency update any result of a background investigation that is more than a year old when an individual is appointed;
- Add a requirement for a background investigation when an individual is physically separated from an agency for misconduct for more than 30 days before being reinstated by the agency;
- Remove the requirement that a full-authority basic training course contain 585 hours;
- Clarify that waiver of training is available only for individuals who have functioned as a peace officer for at least a year;
- Clarify that reimbursement of training expenses is limited to the state-approved rate and excludes expenses for meals;
- Remove the requirement that an academy maintain a written application submitted by an applicant;
- Make Article 2 standards consistent with those in Article 1 regarding documentation of high school education and military service; and
- Remove the definition of “experimentation” regarding illegal use of marijuana, a dangerous drug, or narcotic in Article 2.

An exemption for this rulemaking from Executive Order 2021-02 was provided by Megan Fitzgerald of the Governor’s Office by e-mail dated May 13, 2021. Ms Fitzgerald authorized submission of the rule package to the Council in an e-mail dated February 16, 2022.

**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 any study in its evaluation of or justification for any rule in 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:**

The Board believes amendments clarifying standards, making rules consistent with law, adjusting word choice, deleting obsolete provisions, and addressing other minor issues will have minimal economic impact.

As with all of the Board's requirements, the 585-hour requirement is a minimum standard. Currently, a basic training course for potential peace officers is offered at the state's 15 academies, several of which are associated with community colleges. As a general rule, open enrollees attend academies associated with community colleges while individuals appointed by an agency attend other academies. All of these basic training courses are approved by the Board and all of them consist of more than 585 hours. Removing the 585-hour requirement makes the Board's rule consistent with current industry practice, provides needed flexibility to adjust the hours devoted to each curriculum subject specified in R13-4-116, and protects the public.

On September 30, 2021, Board personnel conducted a meeting with all Arizona academy directors or other representatives. Each acknowledged that their current academy curriculum exceeds the 585-hour requirement. Representatives from two of the 15 academies indicated curriculum changes that have already been implemented, such as an increase in hours from 585 to 663 to include additional training in defensive tactics, firearms, driving, and behavioral response, have had minimal economic impact.

The representative from the Arizona Western College Academy reported the current curriculum is 790 hours and requires 20 weeks. He estimated a planned change in curriculum will require 830 hours and 21 weeks. The additional week will cost approximately \$6,000 for instructors and room and board for recruits. Additionally, some law enforcement agencies will incur expense for an extra week of travel fuel and per diem for appointed individuals employed by the law enforcement agencies. The representative from Southeast Arizona Law Enforcement Training Academy estimated an economic impact of \$13,500 for an additional three weeks of instructor expenses. All academy representatives supported the change in curriculum hours.

The Board has determined that application of the current definition of "denial" requires the Board to deny certification to individuals the Board believes have the potential to be competent and

professional peace officers. The denial is required under the current definition because the individual was found to have engaged in disqualifying conduct such as being deceitful about a minor matter or other conduct that reflects immaturity. This creates a conundrum for the Board, which wishes to certify individuals with potential to be competent and professional peace officers but also wishes to discipline potentially disqualifying conduct. On a few occasions, the Board has certified rather than deny certification to an individual for whom the Board determined the disqualifying conduct had the potential to be remediated and did not warrant denial. However, this is an unsatisfactory way to deal with these situations. The Board prefers to have the discretion to impose some discipline without permanently denying the opportunity for certification. The Board currently has 34 individuals seeking certification who have engaged in potentially disqualifying conduct. The rule change will enable the Board to evaluate each individual, the potentially disqualifying conduct, and the potential for the disqualifying conduct to be remediated by a period of temporary denial.

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

In response to comments regarding the Notice of Proposed Rulemaking, the Board removed R13-4-111 and R13-4-114 from this Notice of Final Rulemaking. After making some recommended changes, the Board will prepare a Notice of Supplemental Proposed Rulemaking that addresses R13-4-111 and R13-4-114. Conforming changes were made in the Preamble.

In anticipation of changes to be made in R13-4-111, the Board removed the word “continuing” from the definition of “vendor” in R13-4-101. Except for this small change, the rules remaining in this Notice of Final Rulemaking are unchanged from the Notice of Proposed Rulemaking.

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

Stakeholders asked the Board to remove the distinction between continuing and proficiency training and to allow use of vendors to provide all training. This was to eliminate a source of confusion and provide flexibility to law enforcement agencies. This will be accomplished in a Notice of Supplemental Proposed Rulemaking focused on R13-4-111 and R13-4-114.

**12. All agencies shall list any 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.R.S. § 41-1823 requires that a rule establishing a minimum qualification for law enforcement officers not go into effect until six months after being filed with the Secretary of State. In this rulemaking, this provision applies to R4-13-103, R4-13-105, and R4-13-110.

**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:**

Certification of an individual as a peace officer or correctional officer is not a general permit as defined under A.R.S. § 41-1001. Under A.R.S. § 41-1822(A) and (B), the Board is required to prescribe reasonable minimum qualifications for peace officers and correctional officers. The Board established those qualifications at R13-4-105, R13-4-109, and R13-4-202 and certifies only individuals who meet the prescribed qualifications. The rules comply with A.R.S. § 41-1037(A)(3).

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

No federal law is directly applicable to the subject of these rules. There are many federal laws that apply to law enforcement agencies and the work done by peace officers. These include general laws such as OSHA, EEOC, and ADA, federal laws regarding crimes, and federal case law regarding law enforcement. The training provided to peace officers is consistent with federal law.

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

No 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 rule:**

None

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

No rule in the rulemaking was previously made, amended, or repealed as an emergency rule.

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

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R13-4-101. Definitions

R13-4-103. Certification of Peace Officers

R13-4-104. Peace Officer Category Restrictions

R13-4-105. Minimum Qualifications

R13-4-106. Background Investigation Requirements

R13-4-110. Basic Training Requirements

R13-4-116. Academy Requirements

R13-4-117. Training Expense Reimbursements

R13-4-118. Hearings; Rehearings

**ARTICLE 2. CORRECTIONAL OFFICERS**

Section

R13-4-201. Definitions

R13-4-202. Uniform Minimum Standards

R13-4-203. Background Investigation

## ARTICLE 1. GENERAL PROVISIONS

### R134101. Definitions

In this Article, unless the context otherwise requires:

“Academy” means an entity that conducts the Board-prescribed basic training courses for full-authority; ~~or specialty, or limited-authority~~ peace officers.

“Adderall,” as used in R13-4-105, means a combination drug containing salts of amphetamine that acts as a central nervous system stimulant. The combination may include amphetamine, methamphetamine, methylphenidate, dextroamphetamine, levoamphetamine, or other stimulants.

“Agency” means a law enforcement entity empowered by the state of Arizona.

“Appointment” means the selection by an agency of an individual to be a peace officer or peace officer trainee.

“Approved training program” means a course of instruction that meets Board-prescribed course requirements.

“Board” means the Arizona Peace Officer Standards and Training Board.

“Board-trained physician” means an occupational medicine specialist or a physician who has attended a Board course on peace officer job functions.

“Cancellation” means the annulment of certified status without prejudice to reapply for certification.

“Certified” means approved by the Board as being in compliance with A.R.S. Title 41, Chapter 12, Article 8 and this Chapter.

“CFE” means the Board-approved Comprehensive Final Examination that measures mastery of the knowledge and skills taught in the ~~585-hour~~ Board approved full-authority peace officer basic training course.

“Denial” means the ~~permanent~~ refusal of the Board to grant certified status. The Board’s denial may be temporary with an opportunity to reapply for certified status or permanent.

“Dangerous drug or narcotic” means a substance identified in A.R.S. § 13-3401 as being a dangerous drug or narcotic drug.

“Full-authority peace officer” means a peace officer whose authority to enforce the laws of this state is not limited by this Chapter.

“Illegal” means in violation of federal or state statute, rule, or regulation.

“Lapse” means the expiration of certified status.

~~“Limited authority peace officer” means a peace officer who is certified to perform the duties of a peace officer only in the presence and under the supervision of a full authority peace officer.~~

“Open enrollee” means an individual who is admitted to an academy but is not appointed by an agency.

~~“Outside provider” means an entity other than the Board or an agency that makes continuing training available to peace officers.~~

“Peace officer” has the meaning in A.R.S. § 1-215.

“Peace officer trainee” means an individual recruited and appointed by an agency to attend an academy.

“Physician” means an individual licensed to practice allopathic or osteopathic medicine in this or another state.

“Resolve-in-the-future or RF” means a designation assigned by the Board regarding alleged misconduct of an inactive peace officer and requires an agency to resolve the alleged misconduct before the agency may appoint the peace officer.

“Restriction” means the Board’s limitation on duties allowed to be performed by a certified peace officer.

“Revocation” means the permanent withdrawal of certified status.

“Service ammunition” means munitions that perform equivalently in all respects when fired during training or qualification to those carried on duty by a peace officer.

“Service handgun” means the specific handgun or equivalent that a peace officer carries for use on duty.

“Specialty peace officer” means a peace officer whose authority is limited to enforcing specific sections of the Arizona Revised Statutes or Arizona Administrative Code, as specified by the appointing agency’s statutory powers and duties.

“Success criteria” means a numerical statement that establishes the performance needed for an individual to demonstrate competency in a knowledge, task, or ability required by this Chapter.

“Suspension” means the temporary withdrawal of certified status.

“Termination” means the end of employment or service with an agency as a peace officer through removal, discharge, resignation, retirement, or otherwise.

“Vendor” means an entity other than the Board or an agency that makes training available to peace officers.

**R13-4-103. Certification of Peace Officers**

- A. Certified status mandatory. An individual who is not certified by the Board or whose certified status is inactive shall not function as a peace officer or be assigned the duties of a peace officer by an agency, except as provided in subsection (B).
- B. Sheriffs who are elected are exempt from the requirement of certified status.
- C. An individual shall satisfy the minimum qualifications and training requirements to receive certified status.
- D. Peace officer categories. The categories for which certified status may be granted are:
  - 1. Full-authority peace officer, and
  - 2. Specialty peace officer, ~~and~~
  - 3. ~~Limited-authority peace officer.~~
- E. Application for certification. An individual who seeks to be certified as a peace officer shall make application as follows:
  - 1. Submit to an agency an application that contains all documents required by R13-4-105, R13-4-106(A) and (B), and R13-4-107;
  - 2. Obtain an appointment from the agency; and
  - 3. Obtain either a certificate of graduation from a Board-prescribed Peace Officer Basic Course or a certificate of successful completion of the waiver of training process prescribed by R13-4-110(D).
- F. An open enrollee shall obtain an appointment from an agency within one year after graduating from a Board-prescribed Peace Officer Basic Course.
  - 1. If more than one year but less than three years elapse after graduation from a Board-prescribed Peace Officer Basic Course before an open enrollee obtains an appointment from an agency, the open enrollee shall again take the CFE required under R13-4-110 and satisfactorily perform the practical demonstrations of proficiency in physical conditioning, vehicle operations, pursuit operations, and firearms, including firearms qualifications, as required under R13-4-116(E)(1).

2. If more than three years elapse after graduation from a Board-prescribed Peace Officer Basic Course, an open enrollee shall again graduate from the Board-prescribed Peace Officer Basic Course before obtaining an appointment from an agency.
- G.** Establishing or enforcing qualifications, standards, or training requirements. The Board may waive in whole or in part any provision of this Article upon a finding that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized by the waiver. The Board may place restrictions or requirements on a peace officer as a condition of certified status.
- H.** This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**R134104. Peace Officer Category Restrictions**

**~~A.~~** ~~Limited-authority peace officer:~~

1. ~~A limited-authority peace officer shall be in the presence and under the supervision of a full-authority peace officer when engaged in patrol or investigative activities performed to detect, prevent, or suppress crime, or to enforce criminal or traffic laws of the state, county, or municipality.~~
2. ~~A limited-authority peace officer may perform the following duties without supervision of a full-authority peace officer:~~
  - a. ~~Directing traffic;~~
  - b. ~~Assisting with crowd control; or~~
  - e. ~~Maintaining public order in the event of riot, insurrection, or disaster.~~

**B.A.** Specialty peace officer. A specialty peace officer has only the authority specified in R13-4-101.

**C.B.** Peace officer category change. A certified peace officer may be appointed to another peace officer category within the same agency without the background investigation and medical examination required in R13-4-105, R13-4-106, and R13-4-107 when these requirements were previously satisfied for appointment if:

1. No more than 30 days have elapsed since the peace officer's termination, and
2. The change is to a category for which the officer is qualified under R13-4-110(A).

**C.** Reinstatement by an agency following termination by the agency for misconduct and physical separation from the agency for more than 30 days. Before reinstating a peace officer who was terminated for misconduct and physically separated from service for more than 30 days, the agency shall conduct the following background investigation and submit the results to the Board. The agency

shall conduct the background investigation even if the peace officer's official date of reinstatement is within the 30 days of physical separation from the agency:

1. A personal history statement as described in R13-4-106(A);
2. A background interview regarding the time physically separated from the agency;
3. A polygraph examination as described in R13-4-106(C)(8) regarding the time physically separated from the agency and including:
  - a. Were you involved in any criminal activity while physically separated from the agency;
  - b. Did you have an encounter with law enforcement while physically separated from the agency;
  - c. Was there a change in your medical condition while physically separated from the agency;
  - d. Questions to update the information required under R13-4-105(A)(6) and (A)(9) through (A)(15) and R13-4-106(C)(2) and (C)(4); and
  - e. Is all the information you provided true, complete, and accurate.

- D.** Inactive status. Certified status of a peace officer becomes inactive upon termination.
- E.** Lapse of certified status. The certified status of a peace officer lapses after three consecutive years on inactive status.
- F.** Reinstatement from inactive status. A peace officer whose certified status is inactive and has not lapsed may have certification reinstated if the requirements of R13-4-105 are met for the new appointment, and if appointed:
1. In the same peace officer category, or;
  2. As a specialty peace officer from inactive status as a full-authority peace officer.
- G.** Active status as a specialty ~~or limited-authority~~ peace officer does not prevent lapse of certified status as a full-authority peace officer.

#### **R134105. Minimum Qualifications**

- A.** Except as provided in subsection (C) or (D), an individual shall meet the following minimum qualifications before being appointed to or attending an academy:
1. Be a United States citizen;
  2. Be at least 21 years of age. An individual may attend an academy if the individual will be 21 years of age before graduating;
  3. Meet one of the following education standards:
    - a. Have a diploma from a high school recognized by the department of education of the jurisdiction from which the diploma is issued,
    - b. Have successfully completed a General Education Development (G.E.D.) examination,

- c. Have a homeschool diploma or certificate of completion that is recognized as the equivalent of a high school diploma by the jurisdiction from which the homeschool diploma or certificate is issued,
  - d. Have a diploma, certificate of completion, or transcripts issued by a private school in Arizona that includes the individual's name and a signed affirmation of the school administrator that the individual received the equivalent of a high school education, or
  - ~~d.e.~~ Have a degree from an institution of higher education accredited by an agency recognized by the U.S. Department of Education;
4. Undergo a complete background investigation that meets the standards of R13-4-106. An individual shall not begin an academy until the agency has completed the background investigation requirements at R13-4-106(C)(1), (C)(2), and (C)(4) through (C)(9). However, an individual may begin an academy before the results of the fingerprint query referenced in R13-4-106(C)(3) are returned. The academy shall not graduate the individual and the Board shall not reimburse the academy for the individual's training expenses until a qualifying background investigation report, as specified in R13-4-106(C)(9), is completed;
  5. Undergo a medical examination that meets the standards of R13-4-107 within one year before appointment. An agency may make a conditional offer of appointment before the medical examination. If the medical examination is conducted more than 180 days before appointment, the individual shall submit a written statement indicating that the individual's medical condition has not changed since the examination;
  6. Not have been convicted of a felony or any offense that would be a felony if committed in Arizona;
  7. Not have been dishonorably discharged from the United States Armed Forces;
  8. Not have been previously denied certified status, have certified status revoked, or have current certified status suspended, or have voluntarily surrendered certified status in lieu of possible disciplinary action in this or any other state if the reason for denial, revocation, suspension, or possible disciplinary action was or would be a violation of R13-4-109(A) if committed in Arizona;
  9. Not have illegally, as defined in R13-4-101, possessed, produced, cultivated, or transported marijuana for sale or sold marijuana;
  10. Not have illegally, as defined in R13-4-101, possessed or used marijuana for any purpose within the past two years;
  11. Not have illegally sold, produced, cultivated, or transported for sale a dangerous drug or narcotic;

12. Not have illegally used a dangerous drug or narcotic, other than marijuana, for any purpose within the past seven years;
  13. Not have a pattern of abuse of prescription medication;
  14. Undergo a polygraph examination that meets the requirements of R13-4-106, unless prohibited by law;
  15. Not have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with a frequency within the past three years that indicates a disrespect for traffic laws or a disregard for the safety of others on the highway;
  16. Read the code of ethics in subsection (E) and affirm by signature the individual understands and agrees to abide by the code.
- B.** To determine whether an individual's possession or use of marijuana, or a dangerous drug or narcotic disqualifies the individual from being appointed or attending an academy, the Board shall use the following standards:
1. Marijuana.
    - a. All forms of marijuana, including THC extracts, cannabis, hashish, marijuana extracts, and marijuana edibles, and all forms of use will be treated the same;
    - b. The individual has not illegally possessed or used marijuana within the two years before appointment as a peace officer; and
    - c. The individual has never illegally possessed or used marijuana as a peace officer;
  2. Dangerous drugs, hallucinogens, narcotics, and prescription drugs containing an active ingredient that is a narcotic or dangerous drug.
    - a. The individual has not illegally possessed or used any of these substances:
      - i. Within the seven years before appointment as a peace officer;
      - ii. More than a total of five times for all substances combined;
      - iii. More than one time for all substances combined since turning 21 years of age; and
      - iv. As a peace officer;
    - b. Dangerous drugs. All dangerous drugs, including methamphetamine, amphetamine, speed, spice, and bath salts will be treated the same;
    - c. Hallucinogens. All hallucinogens, including peyote, mushrooms, ecstasy, lysergic acid diethylamide (LSD), ketamine, mescaline, ~~salvia~~, and phencyclidine (PCP) will be treated the same;
    - d. Narcotics. All narcotics, including cocaine, heroin, and opioids will be treated the same; and

- e. Prescription medications. All prescription medications containing an active ingredient that is a narcotic or dangerous drug will be treated the same. Possession or use for recreational purposes of a prescription medication containing an active ingredient that is a narcotic or dangerous drug is disqualifying under subsection (B)(2);
- 3. Steroids.
    - a. All steroids, including anabolic-androgenic steroids and corticosteroids will be treated the same;
    - b. The individual has not illegally possessed or used a steroid within the three years before appointment as a peace officer; and
    - c. The individual has never illegally possessed or used a steroid as a peace officer;
  - 4. Adderall.
    - a. All uses of Adderall, except as prescribed by a physician, will be treated the same;
    - b. The individual has not possessed or used Adderall, except as prescribed by a physician, within the three years before appointment as a peace officer, and
    - c. The individual has never possessed or used Adderall, except as prescribed by a physician, as a peace officer; and
  - 5. Over-the counter products containing cannabidiol (CBD). The Board does not consider possession or use of over-the-counter products containing CBD, as allowed under federal and state law, as disqualifying an individual from appointment as a peace officer.
- C. An agency head who wishes to appoint an individual whose illegal possession or use of marijuana or a dangerous drug or narcotic is determined to be disqualifying under this Section may petition the Board for a determination that, given the unique circumstances of the individual's possession or use, the use should not be disqualifying. The petition shall:
- 1. Specify the type of drugs illegally possessed or used, the number of uses, the age at the time of each possession or use, the method by which the information regarding illegal possession or use of drugs came to the agency's attention, and any attempt by the agency head to verify the accuracy of the information; and
  - 2. State the factors the agency head wishes the Board to consider in making its determination. These factors may include:
    - a. The duration of possession or use,
    - b. The motivation for possession or use,
    - c. The time elapsed since the last possession or use,
    - d. How the drug was obtained,

- e. How the drug was ingested,
  - f. Why the individual stopped possessing or using the drug, and
  - g. Any other factor the agency head believes is relevant to the Board's determination.
- D.** An agency head who wishes to appoint an individual whose conduct is grounds to deny certification under R13-4-109 may petition the Board for a determination that the otherwise disqualifying conduct constitutes juvenile indiscretion. The petition shall:
1. Specify the nature of the conduct, the number of times the conduct occurred, the method by which information regarding the conduct came to the agency's attention, and any attempt by the agency head to verify the accuracy of the information; and
  2. Include sufficient information for the Board to determine that all of the following are true:
    - a. The conduct occurred when the individual was younger than age 18;
    - b. The conduct occurred more than 10 years before application for appointment;
    - c. The individual has consistently exhibited responsible, law-abiding behavior between the time of the conduct and application for appointment;
    - d. There is reason to believe that the individual's immaturity at the time of the conduct contributed substantially to the conduct;
    - e. There is evidence that the individual's maturity at the time of application makes reoccurrence of the conduct unlikely; and
    - f. The conduct was not so egregious that public trust in the law enforcement profession would be jeopardized if the individual is certified.
  3. If the Board finds that the information submitted is sufficient for the Board to determine that the factors listed in subsection (D)(2) are true, the Board shall determine that the conduct constituted juvenile indiscretion and grant appointment.
- E.** Code of Ethics. Because the people of the state of Arizona confer upon all peace officers the authority and responsibility to safeguard lives and property within constitutional parameters, a peace officer shall commit to the following Code of Ethics and shall affirm the peace officer's commitment by signing the Code.
- "I will exercise self-restraint and be constantly mindful of the welfare of others. I will be exemplary in obeying the laws of the land and loyal to the state of Arizona and my agency and its objectives and regulations. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secure unless revelation is necessary in the performance of my duty.

I will never take selfish advantage of my position and will not allow my personal feelings, animosities, or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, and without favor, malice, ill will, or compromise. I am a servant of the people and I recognize my position as a symbol of public faith. I accept it as a public trust to be held so long as I am true to the law and serve the people of Arizona.”

- F. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**R13-4-106. Background Investigation Requirements**

- A. Personal history statement. An individual who seeks to be appointed shall complete and submit to the appointing agency a personal history statement on a form prescribed by the Board before the start of a background investigation. The Board shall use the answers to questions contained in the personal history statement to determine whether the individual is eligible for certified status as a peace officer. The Board shall ensure that the questions concern whether the individual meets the minimum requirements for appointment, has engaged in conduct or a pattern of conduct that would jeopardize the public trust in the law enforcement profession, and is of good moral character.
- B. Investigative requirements for the applicant. To assist with the background investigation, an individual who seeks to be appointed shall provide the following:
  1. Proof of United States citizenship. A copy of a birth certificate, United States passport, or United States naturalization papers is acceptable proof.
  2. Proof of education. A copy of a diploma, certificate, or transcript is acceptable proof.
  3. Record of any military discharge. A copy of the Military Service Record (DD Form 214 or NGB Form 22), which documents the character of service, separation code, and reentry code, is acceptable proof.
  4. Personal references. The names and addresses of at least three people who can provide information as personal references.
  5. Previous employers or schools attended. The names and addresses of all employers and schools attended within the previous five years.
  6. Residence history. The complete address for every location at which the individual has lived in the last five years.
- C. Investigative requirements for the agency. A complete background investigation includes the following inquiries and a review of the returns to determine that the individual seeking appointment

meets the requirements of R13-4-105, and that the individual's personal history statement is accurate and truthful. For each individual seeking to be appointed, the appointing agency shall:

1. Query all the law enforcement agency records in jurisdictions listed in subsections (B)(5) and (B)(6);
2. Query the motor vehicle division driving record from any state listed in subsections (B)(5) and (B)(6);
3. Complete and submit a Fingerprint Card Inventory Sheet to the Federal Bureau of Investigation and Arizona Department of Public Safety for query;
4. Query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state listed in subsections (B)(5) and (B)(6);
5. Contact all personal references and employers listed in subsections (B)(4) and (B)(5) and document the answers to inquiries concerning whether the individual meets the standards of this Section;
6. Query the Board regarding the individual's certification status, reports of alleged misconduct by the individual, and whether the individual has a Board case with an RF designation;
7. Query all Arizona law enforcement agencies where the individual was appointed or applied for appointment as a peace officer regarding records maintained under R13-4-108(C);
8. Administer a polygraph examination, unless prohibited by law. The results shall include a detailed report of the pre-test interview and any post-test interview and shall cover responses to all questions that concern:
  - a. Minimum standards for appointment as required by R13-4-105,
  - b. Truthfulness on the personal history statement,
  - c. Commission of any crimes; and
  - d. Any Board case with an RF designation; ~~and~~
9. If any of the information under subsections (C)(1) through (C)(8) is more than a year old, the agency shall administer another polygraph examination and query the individual regarding any changes in the information previously received under subsections (C)(1) through (C)(8); and
- ~~9.10.~~ If the results of the background investigation show that the individual meets minimum qualifications for appointment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character, complete a report that attests to those findings. If the agency is unable to obtain all information

required under subsections (C)(1) through ~~(C)(8)~~ (C)(9), include in the report a description of the missing information and efforts made to obtain it.

**R13-4-110. Basic Training Requirements**

- A. Required training for certified status. The Board shall not certify and an individual shall not perform the duties of a peace officer until the individual successfully completes basic training as follows:
1. To be certified as a full-authority peace officer, an individual shall complete the ~~585-hour~~ Board approved full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass the CFE.
    - a. The Board shall ensure the CFE is administered in a secure manner.
    - b. The Board shall ensure that the CFE is administered during the final two weeks of the full-authority peace officer basic training course.
    - c. An individual passes the CFE by achieving a score of at least 70 percent on each of the three blocks of the CFE when each block is scored separately.
    - d. An individual who fails one or more blocks of the CFE may retake the failed block one time before the individual is scheduled to graduate from the academy.
    - e. An individual who fails a retake of a block of the CFE, as described in subsection (A)(1)(d), may retake the failed block once more within 60 days from the original testing date if the individual remains appointed by the original appointing agency or enrolled in the academy.
    - f. An individual who fails a second retake of a block of the CFE, as described in subsection (A)(1)(e), may pursue certification only by repeating the ~~585-hour~~ Board approved full-authority peace officer basic training course.
    - g. An agency head is not required to continue to appoint an individual during the 60 days permitted for a second retake of a failed block of the CFE, as described in subsection (A)(1)(e).
  2. To be certified as a specialty peace officer, an individual shall complete a Board-prescribed specialty peace officer basic training course or the ~~585-hour~~ Board approved full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a specialty peace officer.
  3. ~~To be certified as a limited-authority peace officer, an individual shall complete a Board-prescribed limited-authority peace officer basic training course or the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass~~

~~blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a limited-authority peace officer.~~

- B.** Exceptions. The training requirement in subsection (A) is waived when an agency uses an individual during a:
1. Riot, insurrection, disaster, or other event that exhausts the peace officer resources of the agency and the individual is attending an academy; or
  2. Field training program that is a component of a basic training program at an academy, and the individual is under the direct supervision and control of a certified peace officer.
- C.** Firearms training required. Unless otherwise specified in this Section, a peace officer shall complete the firearms qualification courses required in R13-4-116(E) before the peace officer carries a firearm in the course of duty.
- D.** Waiver of required training.
- ~~1.~~ An agency, on behalf of an individual, may apply to the Board for a waiver of required training if:
    - ~~a.~~ ~~the~~ The individual's certified status is lapsed; ~~or the~~
    - ~~b.~~ The individual has functioned in the capacity of a peace officer in another state, graduated from a Peace Officer Standards and Training Academy, and worked for at least one year as a peace officer; or
    - ~~c.~~ The individual graduated for from a federal law enforcement agency academy and worked for at least one year as a law enforcement officer.
  - ~~2.~~ The Board shall review the application and grant a waiver of required training if the Board determines that the best interests of the law enforcement profession are served, the public welfare and safety are not jeopardized, and:
    - ~~1.~~ ~~a.~~ The appointing agency submits to the Board written verification of the individual's previous experience and training on a form prescribed by the Board;
    - ~~2.~~ ~~b.~~ The individual meets the minimum qualifications listed in R13-4-105;
    - ~~3.~~ ~~c.~~ The individual complies with the requirements of R13-4-103(E)(1);
    - ~~4.~~ ~~d.~~ The appointing agency complies with the requirements of R13-4-106(C);
    - ~~5.~~ ~~e.~~ The individual successfully completes an examination measuring the individual's comprehension of the ~~585-hour~~ Board approved full-authority peace officer basic training course as follows:
      - ~~a.~~ ~~i.~~ If the individual has experience as a certified peace officer in another state or for a federal law enforcement agency and submits to the Board basic training and in-service training records that the Board determines demonstrate substantial comparability to Arizona's

~~585-hour~~ Board approved full-authority peace officer basic training course, the individual shall pass all blocks of the CFE; and

b. ii. If the individual's certification is lapsed, the individual shall pass all blocks of the CFE; and

e. iii. The provisions in subsections ~~(A)(1)(e) through (f)~~ (A)(1)(a), (c), and (e) through (g) apply to this subsection; and

6. f. In addition to the examination required under subsection (D)(5), the individual demonstrates proficiency in the areas of physical conditioning, vehicle operations, pursuit operations, and firearms, including firearms qualifications, as required under R13-4-116(E)(1).

E. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**R13-4-116. Academy Requirements**

A. Unless otherwise provided in this Article, only the basic training provided by an academy that the Board determines meets the standards prescribed in this Section may be used to qualify for certified peace officer status.

B. The academy administrator shall ensure that the academy has the following:

1. A classroom with adequate heating, cooling, ventilation, lighting, and space;
2. Chairs with tables or arms for writing;
3. Visual aid devices for classroom presentation;
4. Equipment in good condition for specialized instruction;
5. A safe driving range for conducting the defensive and pursuit driving course;
6. A firing range with adequate backstop to ensure the safety of all individuals on or near the range; and
7. A safe location for practical exercises.

C. Administrative requirements. The academy administrator shall ensure that the academy:

1. Establishes and maintains written policies, procedures, and rules concerning:
  - a. Operation of the academy,
  - b. Entrance requirements,
  - c. Student and instructor conduct, and
  - d. Administering examinations;
2. Admits only individuals who meet the requirements of R13-4-105, as attested to by the appointing agency or, in the case of an open enrollee, by the academy administrator, on form A1 or A4, as applicable, which is submitted to the Board on or before the first day of training;

3. Administers to each student at the beginning of each academy session a written examination prescribed by the Board measuring competency in reading and writing English;
4. Schedules sufficient time for the CFE to be administered as required by R13-4-110(A); and
5. Uses only instructors who are qualified under R13-4-114(A).

**D. Academic requirements.** The academy administrator shall ensure that the academy:

1. Establishes a curriculum with performance objectives and learning activities that meet the requirements of subsection (E) and R13-4-114(B);
2. Requires instructors to use lesson plans that cover the course content and list the performance objectives to be achieved and learning activities to be used;
3. Administers written, oral, or practical demonstration examinations that measure the attainment of the performance objectives;
4. Reviews examination results with each student and ensures that the student is shown any necessary corrections and signs and dates an acknowledgment that the student participated in the review;
5. Requires a student to complete successfully oral or written examinations that cover all topics in all functional areas before graduating.
  - a. Successful completion of an examination is a score of 70 percent or greater;
  - b. For a student who scores less than 70 percent, the academy shall:
    - i. Provide remedial training, and
    - ii. Re-examine the student in the area of deficiency; and
  - c. The academy shall allow a student to retake each examination only once;
6. Requires a student to qualify with firearms as described in R13-4-116(E);
7. Ensures that a student meets the success criteria for police proficiency skills under subsection (E)(1);
8. Provides remedial training for a student who misses a class before allowing the student to graduate; and
9. Refuses to graduate a student who is absent more than 32 hours from the ~~585-hour~~ Board approved full-authority peace officer basic training course or 16 hours from the specialty ~~or limited-authority~~ peace officer basic training course.

**E. Basic course requirements.** The academy administrator shall ensure that the academy uses curricula that meet the requirements of R13-4-114 for the following basic courses of instruction.

1. The ~~585-hour~~ Board approved full-authority peace officer basic training course shall include all of the topics listed in each of the following functional areas:

- a. Functional Area I - Introduction to Law Enforcement.
  - i. Criminal justice systems,
  - ii. History of law enforcement,
  - iii. Law enforcement services,
  - iv. Supervision and management,
  - v. Ethics and professionalism, and
  - vi. Stress management.
  
- b. Functional Area II - Law and Legal Matters.
  - i. Introduction to criminal law;
  - ii. Laws of arrest;
  - iii. Search and seizure;
  - iv. Rules of evidence;
  - v. Summonses, subpoenas, and warrants;
  - vi. Civil process;
  - vii. Administration of criminal justice;
  - viii. Juvenile law and procedures;
  - ix. Courtroom demeanor;
  - x. Constitutional law;
  - xi. Substantive criminal law, A.R.S. Titles 4, 13, and 36; and
  - xii. Liability issues.
  
- c. Functional Area III - Patrol Procedures.
  - i. Patrol and observation (part 1),
  - ii. Patrol and observation (part 2),
  - iii. Domestic violence,
  - iv. ~~Mental illness~~ Behavioral health crisis response,
  - v. Crimes in progress,
  - vi. Crowd control formations and tactics,
  - vii. Bomb threats and disaster training,
  - viii. Intoxication cases,
  - ix. Communication and police information systems,
  - x. Hazardous materials,
  - xi. Bias-motivated crimes,
  - xii. Fires, and

- xiii. Civil Disputes.
- d. Functional Area IV - Traffic Control.
  - i. Impaired driver cases;
  - ii. Traffic citations;
  - iii. Traffic collision investigation;
  - iv. Traffic collision (practical);
  - v. Traffic direction; and
  - vi. Substantive Traffic Law, A.R.S. Title 28.
- e. Functional Area V - Crime Scene Management.
  - i. Preliminary investigation and crime scene management,
  - ii. Crime scene investigation (practical),
  - iii. Physical evidence procedures,
  - iv. Interviewing and questioning,
  - v. Fingerprinting,
  - vi. Sex crimes investigations,
  - vii. Death investigations including sudden infant death syndrome,
  - viii. Organized crime activity,
  - ix. Investigation of specific crimes, and
  - x. Narcotics and dangerous drugs.
- f. Functional Area VI - Community and Police Relations.
  - i. Cultural awareness,
  - ii. Victimology,
  - iii. Interpersonal communications,
  - iv. Crime prevention, and
  - v. Police and the community.
- g. Functional Area VII - Records and Reports. Report writing.
- h. Functional Area VIII - Police Proficiency Skills.
  - i. First aid,
  - ii. Less lethal operations (including certification),
  - ~~iii~~iii. Firearms training (including firearms qualification),
  - ~~iii~~iv. Physical conditioning,
  - ~~iv~~v. High-risk stops,
  - ~~v~~vi. Arrest and control tactics,

- ~~vi-vii.~~ Vehicle operations, and
- ~~vii-viii.~~ Pursuit operations.
- i. Functional Area IX - Orientation and Introduction.
  - i. Examinations and reviews,
  - ii. Counseling, and
  - iii. Non-Board specified courses.
- 2. The specialty peace officer basic training course shall include all of the topics necessary from the ~~585-hour~~ Board approved full-authority peace officer basic training course for the curriculum to meet the requirements of R13-4-114(B).
- ~~3. The limited-authority peace officer basic training course shall include all of the topics necessary from the 585-hour full-authority peace officer basic training course for the curriculum to meet the requirements of R13-4-114(B).~~
- ~~4.3.~~ Administrative functions such as orientation, introductions, examinations and reviews, and counseling are exempt from the requirements of R13-4-114(B).
- F. Records required. The academy administrator shall ensure that the following records are maintained and made available for inspection by the Board or staff. The academy administrator shall provide to the Board copies of records upon request.
  - 1. A record of all students attending the academy;
  - 2. A manual containing the policies, procedures, and rules of the academy;
  - 3. A document signed by each student indicating that the student received and read a copy of the academy policies, procedures, and rules;
  - ~~4. An application for each student, on a form prescribed by the Board, from the appointing agency or, in the case of an open enrollee, from the academy administrator, attesting that the requirements of R13-4-105 are met;~~
  - ~~5.4.~~ A copy of all lesson plans used by instructors;
  - ~~6.5.~~ An annually signed and dated acknowledgment that the academy administrator reviewed and approved each lesson plan used at the academy;
  - ~~7.6.~~ A copy of all examinations, answer sheets or records of performance, and examination review acknowledgments;
  - ~~8.7.~~ An attendance roster for all classes or other record that identifies absent students;
  - ~~9.8.~~ A record of classes missed by each student and the remedial training received;
  - ~~10.9.~~ A record of disciplinary actions for all students; and
  - ~~11.10.~~ A file for each student containing the student's performance history.

**G. Reports required.** The academy administrator shall submit to the Board:

1. At least 10 working days before the start of each academy session, a complete schedule of classes containing the name of the instructor for each class and the training location;
2. No more than five working days after the start of each academy session, on a form prescribed by the Board, a roster indicating whether a student is an open enrollee or appointed and if appointed, identifying the appointing agency, and the full name and Social Security number of each student;
3. No more than five working days after dismissing a student from the academy, notification of the dismissal and the reason;
4. No later than the tenth day of each month, a report containing:
  - a. A summary of training activities and progress of the academy class to date;
  - b. Unusual occurrences, accidents, or liability issues; and
  - c. Other problems or matters of interest noted in the course of the academy, if not included under subsection (G)(4)(b);
5. No more than 10 working days after the end of each academy session, a complete schedule of classes containing the name of the instructor for each class and the training location;
6. No more than 10 working days after the end of each academy session, on a form prescribed by the Board, a roster indicating whether a student is an open enrollee or appointed and if appointed, identifying the appointing agency, and the full name and Social Security number of each student successfully completing the training.

**H. Required inspections.** Before an academy provides training to individuals seeking certification for any category of peace officer, the Board staff shall conduct an onsite inspection of the academy to determine compliance with this Section and R13-4-114. Board staff shall conduct additional inspections as often as the Board deems necessary.

1. Within 30 days after the inspection, the Board staff shall provide to the academy administrator an inspection report that lists any deficiencies identified and remedial actions the academy is required to take to comply with the standards of this Section and R13-4-114.
2. Within 30 days after receipt of the inspection report, the academy administrator shall submit to the Board a response that indicates the progress made to complete the remedial actions necessary to correct the deficiencies described in the inspection report. The academy administrator shall submit to the Board additional responses every 30 days until all remedial action is complete.
3. Within 30 days after receipt of notice that all remedial action is complete, Board staff shall conduct another inspection.

4. Following each inspection, Board staff shall present an inspection report to the Board describing the academy's compliance in meeting the standards of this Section and R13-4-114.
- I. If an academy does not conduct a peace officer basic training course for 12 consecutive months, the academy shall not provide training until Board staff conducts another inspection as required by subsection (H). Otherwise, an academy may continue to provide training unless the Board determines that the academy is not in compliance with the standards of this Section or R13-4-114.
- J. If the Board finds that an academy fails to comply with the provisions of this Section or R13-4-114, the academy shall not provide training to individuals seeking to be certified as peace officers.
- K. An academy administrator shall ensure that an open enrollee is admitted only after the academy administrator complies with every requirement of an agency or agency head imposed by R13-4-105, R13-4-106, R13-4-107, and R13-4-108 except for R13-4-106(C)(4).

**R13-4-117. Training Expense Reimbursements**

- A. Approval of training courses. The Board shall approve or deny training courses for training expense reimbursement based on compliance with this Section and R13-4-111, and availability of funds.
- B. Application for reimbursement. Before the beginning of a training program described in R13-4-111, an agency planning to participate in the training and apply for reimbursement, shall notify the Board on prescribed forms.
- C. Claim for reimbursement. When an individual completes a training course, the appointing agency may submit a claim for reimbursement on a form prescribed by the Board. The agency shall submit the claim within 60 days after the training is completed.
- D. Allowable reimbursements. The Board shall allow the following reimbursements subject to the limits on the amount of reimbursement as determined by the Board under subsection (E):
  1. The ~~actual cost of~~ state-approved rate for lodging and meals while a peace officer attended a training course,
  2. Tuition for a training course on a pro-rata basis for the actual hours of training attended, and
  3. Other expenses incurred by a peace officer.
- E. Limitations on reimbursements. The following limitations apply to applications for reimbursement involving training courses.
  1. The Board shall not reimburse an agency if the peace officer has previously completed the same training course within three years;

2. The Board shall not reimburse an agency for a peace officer who fails to complete a training course except upon request of the appointing agency. The agency shall present the reasons for the non-completion to the Board with the request for reimbursement; and
  3. The Board shall not reimburse an agency for the cost of insurance, medical, pension, uniform, clothing, equipment, or other benefits or expenses of a peace officer while attending a training course.
- F. Academy reimbursement.** The Board may reimburse an academy for the actual costs of materials, books, ammunition, registration fees and tuition, necessary for completion of a basic course up to the limits set by the Board. To receive reimbursement, an academy shall furnish paid receipts or invoices or other information as required by the Board to verify costs incurred. The Board shall not reimburse an academy for costs incurred for registration fees, tuition, books, materials, or ammunition for a peace officer, if the Board has made these reimbursements for the peace officer's previous attendance at an academy.

**R13-4-118. Hearings; Rehearings**

- A.** If a respondent makes a request for hearing under R13-4-109(E), the hearing shall be held in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- B.** If a respondent fails to comply with the requirements under R13-4-109(E) within 30 days of the notice of action sent under R13-4-109(E), the Board may consider the case based on the information available.
- C.** If a respondent requests a hearing, but fails to appear at the hearing, the Board or administrative law judge may vacate the hearing. If a hearing is vacated, the Board may deem the acts and violations charged in the notice of action admitted, and impose any of the sanctions provided by A.R.S. § 41-1822~~(C)~~~~(+)~~ (D)(1).
- D.** The Board shall render a decision in writing. The Board shall serve notice of the decision on each party as required by A.R.S. § 41-1092.04.
- E.** Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a Board decision to exhaust the party's administrative remedies.
- F.** A party may file a motion for rehearing or review of a decision with the Board not later than 30 days after service of the Board's decision, specifying the particular grounds for the motion.
- G.** The Board may grant a rehearing or review of a decision for any of the following reasons materially affecting the moving party's rights:

1. Irregularity in the administrative proceedings, or any abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, the administrative law judge, or the prevailing party;
  3. Mistake or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the hearing;
  5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
  6. The decision was not justified by the evidence or the decision was contrary to law.
- H.** The Board may affirm or modify the decision or grant a rehearing to any or all of the parties, on part or all of the issues, for any of the reasons in subsection (G). An order granting a rehearing shall specify the particular issues in the rehearing and the rehearing shall concern only the matters specified.
- I.** If the Board makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board shall issue the decision as a final decision without an opportunity for rehearing or review.

## **ARTICLE 2. CORRECTIONAL OFFICERS**

### **R134201. Definitions**

The definitions in A.R.S. § 41-1661 apply to this Article. Additionally, unless the context otherwise requires:

“Academy” means the Correctional Officer Training Academy (COTA) of the Arizona Department of Corrections in Tucson, Arizona, or a satellite location authorized by the Director.

“Appointment” means the selection of an individual as a correctional officer.

“Applicant” means an individual who applies to be a correctional officer.

“Cadet” means an individual who is attending the academy and, upon graduation, will become a state correctional officer.

“Dangerous drug or narcotic” is defined in R13-4-101.

“Department” means the Arizona Department of Corrections.

~~“Experimentation” means the illegal use of marijuana, a dangerous drug, or narcotic, as described in R13-4-105(B) and (C).~~

“State correctional officer” means an individual employed by the Department in the correctional officer series.

**R134202. Uniform Minimum Standards**

A. To be admitted to the academy for training as a state correctional officer, an individual shall:

1. Be a citizen of the United States or eligible to work in the United States;
2. Be at least 18 years of age by the date of graduation from the academy;
3. Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination or equivalent as specified in R13-4-203(C)(3);
4. Have a valid Arizona driver’s license (Class 2 or higher) by the date of graduation from the academy;
5. Undergo a complete background investigation that meets the standards of R13-4-203;
6. Undergo a physical examination (within 12 months before appointment) as prescribed by the Director by a licensed physician designated by the Director;
7. Not have been dishonorably discharged from the United States Armed Forces;
- ~~8. Not have experimented with marijuana within the past 12 months;~~
- ~~9-8.~~ 9-8. Not have ~~experimented with~~ used a dangerous drug or narcotic, as defined at A.R.S. § 13-3401, within the past five years;
- ~~10. Not have ever illegally used marijuana, or a dangerous drug or narcotic other than for experimentation;~~
- ~~11-9.~~ 11-9. Not have a pattern of abuse of prescription medication; and
- ~~12-10.~~ 12-10. Not have committed a felony or a misdemeanor of a nature that the Board determines has a reasonable relationship to the functions of the position, in accordance with A.R.S. § 13-904(E).

B. If the Director wishes to appoint an individual whose conduct is grounds to deny certification under R13-4-109, the Director may petition the Board for a determination that the otherwise disqualifying conduct constitutes juvenile indiscretion by complying with R13-4-105(D).

C. Code of Ethics. To enhance the quality of performance and the conduct and the behavior of correctional officers, an individual appointed to be a correctional officer shall commit to the following Code of Ethics and shall affirm the commitment by signing the Code:

“I shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism, or partisan demands. I shall be courteous, considerate, and prompt when dealing with the public, realizing that I serve the public. I shall maintain mutual respect and professional cooperation in my relationships with other staff members.

I shall be firm, fair, and consistent in the performance of my duties. I shall treat others with dignity, respect, and compassion, and provide humane custody and care, void of all retribution, harassment, or abuse. I shall uphold the Constitutions of the United States and the state of Arizona, and all federal and state laws. Whether on or off duty, in uniform or not, I shall conduct myself in a manner that will not bring discredit or embarrassment to my agency or the state of Arizona.

I shall report without reservation any corrupt or unethical behavior that could affect either inmates, employees, or the integrity of my agency. I shall not use my official position for personal gain. I shall maintain confidentiality of information that has been entrusted to me and designated as such.

I shall not permit myself to be placed under any kind of personal obligation that could lead any person to expect official favors. I shall not accept or solicit from anyone, either directly or indirectly, anything of economic value such as a gift, gratuity, favor, entertainment, or loan, that is or may appear to be, designed to influence my official conduct. I will not discriminate against any inmate, employee, or any member of the public on the basis of race, gender, creed, or national origin. I will not sexually harass or condone sexual harassment of any person. I shall maintain the highest standards of personal hygiene, grooming, and neatness while on duty or otherwise representing the state of Arizona.”

**R13-4-203. Background Investigation**

- A.** The Department shall conduct a background investigation before an applicant is admitted to the academy. The Department shall review the personal history statement submitted under subsection (B) and the results of the background investigation required in subsection (C) to determine whether the individual meets the requirements of R13-4-202 and the individual’s personal history statement is accurate and truthful.
- B.** Personal history. An applicant shall complete and submit to the employing agency a personal history statement on a form prescribed by the Board. The applicant shall complete the personal history statement before the start of the background investigation and ensure that the personal history statement provides the information necessary for the Department to conduct the investigation described in subsection (C).
- C.** Investigative requirements. Before admitting an applicant to the academy, the Department shall collect, verify, and retain documents establishing that the applicant meets the standards specified in this Article. At a minimum, this documentation shall include:

1. Proof of the applicant's age and United States citizenship or eligibility to work in the United States. A copy of any of the following regarding the applicant is acceptable proof:
  - a. Birth certificate,
  - b. United States passport,
  - c. Certification of United States Naturalization,
  - d. Certificate of Nationality, or
  - e. Immigration Form I-151 or I-1551.
2. Proof of the applicant's valid driver's license. A copy of the applicant's driver's license and written verification of the applicant's driving record from the applicable state's Department of Transportation, Motor Vehicle Division, is required proof.
3. Proof that the applicant is a high school graduate or its equivalent. The following are acceptable proof:
  - a. A copy of a diploma from a high school recognized by the department of education of the jurisdiction in which the diploma is issued;
  - b. A copy of a certificate showing successful completion of the General Education Development (G.E.D.) test; or
  - c. In the absence of proof of high school graduation or successful completion of the G.E.D. test,
    - i. A copy of a degree or transcript from an accredited college or university showing successful completion of high school or high school equivalency;
    - ii. A United States Military Service Record DD Form 214-#4 with the Education block indicating high school completion, ~~or~~
    - iii. A copy of a diploma, certificate of completion, or transcripts issued by a private school in Arizona that includes the individual's name and a signed affirmation of the school administrator that the individual named received the equivalent of a high school education; or
    - iii.iv. Other evidence of high school education equivalency submitted to the Board for consideration.
4. Record of any military discharge. A copy of the Military Service Record (DD Form 214-#4 or NGB Form 22), which documents the character of service, separation code, and reentry code, is acceptable proof.
5. Results of a psychological fitness assessment approved by the Director and conducted by a psychologist or psychiatrist designated by the Department.

6. Personal references: The names and addresses of at least three individuals who can provide information regarding the applicant.
7. Previous employers or schools attended. The names and addresses of all employers of and schools attended by the applicant for the past five years.
8. Residence history. The complete address for every location at which the applicant has lived in the last five years.
9. Law enforcement agency records. The Department shall request and review law enforcement agency records in jurisdictions where the applicant has lived, worked, or attended school in the past five years. The Department shall document the information obtained.
10. Criminal history query. The Department shall query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state where the applicant has lived, worked, or attended school in the past five years and review the criminal history record for any arrest or conviction to determine compliance with R13-4-202.
11. Fingerprint card. The Department shall obtain from an applicant and submit a fingerprint card for processing by the Arizona Department of Public Safety and the Federal Bureau of Investigation.
  - a. The Department shall process a fingerprint card for an applicant entering the academy, except as provided in subsections (C)(9)(b) and (C)(9)(c). The Department shall process a fingerprint card for an applicant even if the applicant has a processed applicant fingerprint card from a previous employer.
  - b. If the fingerprint card is not fully processed when the applicant is ready to enter the academy, the Department may allow the applicant to attend the academy if:
    - i. A computerized criminal history check has been made and the results are on file with the Department, and
    - ii. The applicant meets all other requirements of this Section and R13-4-202.
  - c. If the Department has not received a fully processed fingerprint card within 15 weeks of the date of admission to the academy, the individual does not meet the requirements of this Section and may be terminated from the academy. The Department may extend the deadline for receipt of a processed fingerprint card an additional 15 weeks. An individual terminated from the academy under this subsection may be re-employed under R13-4-208 when a fully processed fingerprint card is received.

# ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>

## TITLE 13. PUBLIC SAFETY

### CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

#### 1. Identification of the rulemaking:

Consistent with issues identified in the Board's five-year-review report approved by the Council on June 1, 2021, the Board is making the following changes:

- Clarify that "denial" of certification may be temporary or permanent;
- Remove "limited authority" as a class of peace officer certification;
- Change the term "outside provider" to "vendor" when referring to entities allowed to conduct training;
- Clarify the documentation necessary to show an individual attended a private high school;
- Add a cross reference to the definition of "illegal" regarding possession, production, cultivation, transportation, sale, or use of marijuana;
- Remove salvia from the list of hallucinogens because neither federal nor state law regulates it;
- Add a requirement that a hiring agency update any result of a background investigation that is more than a year old when an individual is appointed;
- Add a requirement for a background investigation when an individual is physically separated from an agency for misconduct for more than 30 days before being reinstated by the agency;
- Remove the requirement that a full-authority basic training course contain 585 hours;
- Clarify that waiver of training is available only for individuals who have functioned as a peace officer for at least a year;
- Clarify that reimbursement of training expenses is limited to the state-approved rate and excludes expenses for meals;
- Remove the requirement that an academy maintain a written application submitted by an applicant;
- Make Article 2 standards consistent with those in Article 1 regarding documentation of high school education and military service; and

---

<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

- Remove the definition of “experimentation” regarding illegal use of marijuana, a dangerous drug, or narcotic in Article 2.
  - a. The conduct and its frequency of occurrence that the rule is designed to change:  
Until the rulemaking is completed, the Board will not have addressed issues identified in its recent 5YRR.
  - b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:  
Rules that are not clear, concise, understandable, and consistent with statute and current Board practice cause harm to peace officers and those hoping to become peace officers.
  - c. The estimated change in frequency of the targeted conduct expected from the rule change:  
When the rulemaking is completed, the Board’s rules will be clear, concise, understandable, and consistent with statute and current Board practice.
- 2. A brief summary of the information included in the economic, small business, and consumer impact statement:  
The Board has determined that amendments clarifying standards, making rules consistent with law, adjusting word choice, deleting obsolete provisions, and addressing other minor issues will have minimal economic impact.
- 3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:  
Name: Michael Giammarino, Program Administrator  
Address: 2643 E. University Drive  
Phoenix, AZ 85034  
Telephone: 602-223-2514  
E-mail: mikeg@azpost.gov  
Web site: azpost.gov
- 4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:  
Peace officers, those who wish to be certified as peace officers, law enforcement agencies, academies, and the Board will be directly affected by, bear the costs of, and directly benefit from the rulemaking.
- 5. Cost-benefit analysis:

1. Removing the requirement that a Board-approved basic training course consist of 585 hours:

As with all of the Board's requirements, the 585-hour requirement is a minimum standard. Currently, a basic training course for potential peace officers is offered at the state's 15 academies, several of which are associated with community colleges. As a general rule, open enrollees attend academies associated with community colleges while individuals appointed by an agency attend other academies. All of these basic training courses are approved by the Board and all of them consist of more than 585 hours. Removing the 585-hour requirement makes the Board's rule consistent with current industry practice, provides needed flexibility to adjust the hours devoted to each curriculum subject specified in R13-4-116, and protects the public.

On September 30, 2021, Board personnel conducted a meeting with all Arizona academy directors or other representatives. Each acknowledged that their current academy curriculum exceeds the 585-hour requirement. Representatives from two of the 15 academies indicated curriculum changes that have already been implemented, such as an increase in hours from 585 to 663 to include additional training in defensive tactics, firearms, driving, and behavioral response, have had minimal economic impact.

The representative from the Arizona Western College Academy reported the current curriculum is 790 hours and requires 20 weeks. He estimated a planned change in curriculum will require 830 hours and 21 weeks. The additional week will cost approximately \$6,000 for instructors and room and board for recruits. Additionally, some law enforcement agencies will incur expense for an extra week of travel fuel and per diem for appointed individuals employed by the law enforcement agencies. The representative from Southeast Arizona Law Enforcement Training Academy estimated an economic impact of \$13,500 for an additional three weeks of instructor expenses.

2. Amending the definition of "denial" to provide the Board with discretion regarding the appropriate response to potentially disqualifying behavior:

The Board has determined that under application of the current definition of "denial," it is required to deny certification to individuals the Board believes have the potential to be competent and professional peace officers. The denial is required under the current definition because the individual was found to have engaged in disqualifying conduct such as being

deceitful about a minor matter or other conduct that reflects immaturity. This creates a conundrum for the Board, which wishes to certify individuals with potential to be competent and professional peace officers but also wishes to discipline potentially disqualifying conduct. On a few occasions, the Board has certified rather than deny certification to an individual for whom the Board determined the disqualifying conduct had the potential to be remediated and did not warrant denial. However, this is an unsatisfactory way to deal with these situations. The Board prefers to have the discretion to impose some discipline without permanently denying the opportunity for certification. The Board currently has 34 individuals seeking certification who have engaged in potentially disqualifying conduct. The rule change will enable the Board to evaluate each individual, the potentially disqualifying conduct, and the potential for the disqualifying conduct to be remediated by a period of temporary denial.

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

The rules in Article 2 directly benefit the Department of Corrections. The Department will be able to implement the amended rules with minimal cost. Neither the Department nor the Board will require a new full-time employee to implement and enforce the rules. The Board's benefits and costs are described in item 5.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

Political subdivisions are directly affected by the rulemaking. This includes the political subdivisions<sup>2</sup> that operate training academies and those that appoint certified peace officers. Their benefits and costs are described in item 5.

- c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

The Board expects there will be no impact on private or public employment.

7. Impact on small businesses<sup>3</sup>:

The rulemaking has no impact on businesses.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

No private persons or consumers will be directly affected by the rulemaking.

9. Probable effects on state revenues:

---

<sup>2</sup> A.R.S. § 41-1822(A)(4) provides that only this state and political subdivisions of this state may conduct basic peace officer training.

<sup>3</sup> Small business has the meaning specified in A.R.S. § 41-1001(21).

There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

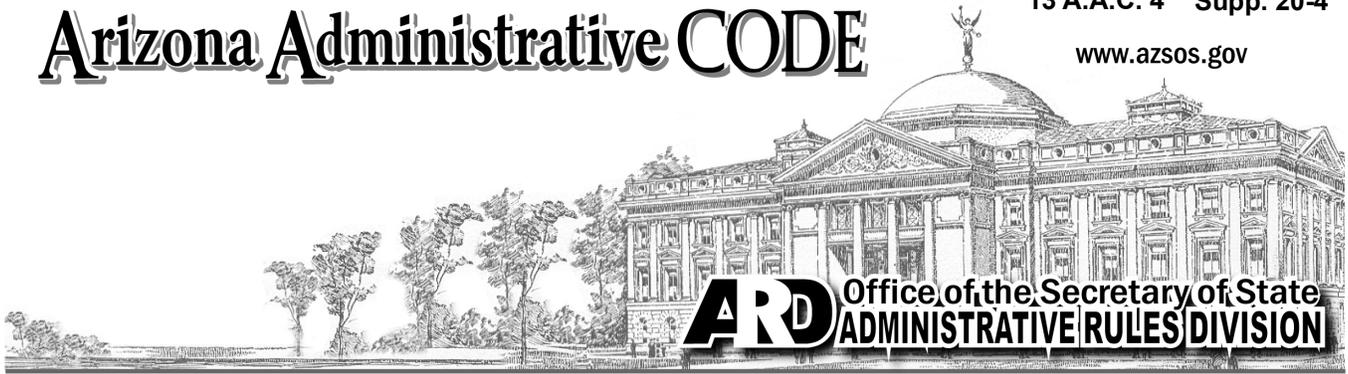
The Board concluded no less intrusive or less costly alternative method existed to achieve the intended purpose of the rulemaking. The primary benefits of the rulemaking are positive.

Requiring a hiring agency to update a background investigation that is more than a year old and requiring a background investigation when an individual is physically separated from an agency for more than 30 days before reinstating the individual will impose minor costs that are outweighed by the benefit of protecting public safety and the law enforcement profession.

# Arizona Administrative CODE

13 A.A.C. 4 Supp. 20-4

www.azsos.gov



## TITLE 13. PUBLIC SAFETY

### CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of October 1, 2020 through December 31, 2020

<a href="#">R13-4-101.</a>	<a href="#">Definitions .....</a>	<a href="#">2</a>	<a href="#">R13-4-109.</a>	<a href="#">Denial, Revocation, Suspension, or Cancellation of Peace Officer Certified Status .....</a>	<a href="#">7</a>
<a href="#">R13-4-104.</a>	<a href="#">Peace Officer Category Restrictions .....</a>	<a href="#">3</a>	<a href="#">R13-4-110.</a>	<a href="#">Basic Training Requirements .....</a>	<a href="#">8</a>
<a href="#">R13-4-105.</a>	<a href="#">Minimum Qualifications .....</a>	<a href="#">3</a>	<a href="#">R13-4-111.</a>	<a href="#">Certification Retention Requirements .....</a>	<a href="#">9</a>
<a href="#">R13-4-106.</a>	<a href="#">Background Investigation Requirements .....</a>	<a href="#">5</a>	<a href="#">R13-4-114.</a>	<a href="#">Minimum Course Requirements .....</a>	<a href="#">11</a>
<a href="#">R13-4-108.</a>	<a href="#">Agency Records and Reports .....</a>	<a href="#">6</a>	<a href="#">R13-4-116.</a>	<a href="#">Academy Requirements .....</a>	<a href="#">12</a>

#### Questions about these rules? Contact:

Board: Arizona Peace Officer Standards and Training Board  
Name: Michael Orose, Compliance Program Administrator  
2643 E. University Dr.  
Phoenix, AZ 85034  
Telephone: (602) 774-9354  
E-mail: [michaelo@azpost.gov](mailto:michaelo@azpost.gov)  
Website: [www.azpost.gov](http://www.azpost.gov)

#### The release of this Chapter in Supp. 20-4 replaces Supp. 19-2, 1-19 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

---

### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.*



Administrative Rules Division  
 The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD**

(Authority: A.R.S. § 41-1822(1) et seq.)

*The Arizona Law Enforcement Officer Advisory Council's name was changed by Laws 1994, Ch. 324, § 1, effective July 17, 1994. All references to the Council were changed to reflect the new Board. (Supp. 94-3).*

**ARTICLE 1. GENERAL PROVISIONS**

*New Article 1 consisting of Sections R13-4-101 through R13-4-118 adopted effective March 23, 1989.*

*Former Article 1 consisting of Sections R13-4-01 through R13-4-08 repealed effective March 23, 1989.*

Section

R13-4-101. Definitions ..... 2

R13-4-102. Internal Organization and Control of the Board .. 2

R13-4-103. Certification of Peace Officers ..... 2

R13-4-104. Peace Officer Category Restrictions ..... 3

R13-4-105. Minimum Qualifications ..... 3

R13-4-106. Background Investigation Requirements ..... 5

R13-4-107. Medical Requirements ..... 6

R13-4-108. Agency Records and Reports ..... 6

R13-4-109. Denial, Revocation, Suspension, or Cancellation of Peace Officer Certified Status ..... 7

R13-4-109.01. Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies ..... 7

R13-4-110. Basic Training Requirements ..... 8

R13-4-111. Certification Retention Requirements ..... 9

R13-4-112. Time Frames ..... 10

R13-4-113. Repealed ..... 11

R13-4-114. Minimum Course Requirements ..... 11

R13-4-115. Repealed ..... 12

R13-4-116. Academy Requirements ..... 12

R13-4-117. Training Expense Reimbursements ..... 14

R13-4-118. Hearings; Rehearings ..... 15

**ARTICLE 2. CORRECTIONAL OFFICERS**

*Article 2, consisting of Sections R13-4-201 through R13-4-208, adopted effective December 16, 1992, filed June 16, 1992 (Supp. 92-2).*

Section

R13-4-201. Definitions ..... 15

R13-4-202. Uniform Minimum Standards ..... 15

R13-4-203. Background Investigation ..... 16

R13-4-204. Records and Reports ..... 17

R13-4-205. Basic Training Requirements ..... 17

R13-4-206. Field Training and Continuing Training Including Firearms Qualification ..... 19

R13-4-207. Repealed ..... 19

R13-4-208. Re-employment of State Correctional Officers .. 19

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

**ARTICLE 1. GENERAL PROVISIONS****R13-4-101. Definitions**

In this Article, unless the context otherwise requires:

“Academy” means an entity that conducts the Board-prescribed basic training courses for full-authority, specialty, or limited-authority peace officers.

“Adderall,” as used in R13-4-105, means a combination drug containing salts of amphetamine that acts as a central nervous system stimulant. The combination may include amphetamine, methamphetamine, methylphenidate, dextroamphetamine, levoamphetamine, or other stimulants.

“Agency” means a law enforcement entity empowered by the state of Arizona.

“Appointment” means the selection by an agency of an individual to be a peace officer or peace officer trainee.

“Approved training program” means a course of instruction that meets Board-prescribed course requirements.

“Board” means the Arizona Peace Officer Standards and Training Board.

“Board-trained physician” means an occupational medicine specialist or a physician who has attended a Board course on peace officer job functions.

“Cancellation” means the annulment of certified status without prejudice to reapply for certification.

“Certified” means approved by the Board as being in compliance with A.R.S. Title 41, Chapter 12, Article 8 and this Chapter.

“CFE” means the Board-approved Comprehensive Final Examination that measures mastery of the knowledge and skills taught in the 585-hour full-authority peace officer basic training course.

“Denial” means the permanent refusal of the Board to grant certified status.

“Dangerous drug or narcotic” means a substance identified in A.R.S. § 13-3401 as being a dangerous drug or narcotic drug.

“Full-authority peace officer” means a peace officer whose authority to enforce the laws of this state is not limited by this Chapter.

“Illegal” means in violation of federal or state statute, rule, or regulation.

“Lapse” means the expiration of certified status.

“Limited-authority peace officer” means a peace officer who is certified to perform the duties of a peace officer only in the presence and under the supervision of a full-authority peace officer.

“Open enrollee” means an individual who is admitted to an academy but is not appointed by an agency.

“Outside provider” means an entity other than the Board or an agency that makes continuing training available to peace officers.

“Peace officer” has the meaning in A.R.S. § 1-215.

“Peace officer trainee” means an individual recruited and appointed by an agency to attend an academy.

“Physician” means an individual licensed to practice allopathic or osteopathic medicine in this or another state.

“Resolve-in-the-future or RF” means a designation assigned by the Board regarding alleged misconduct of an inactive peace officer and requires an agency to resolve the alleged misconduct before the agency may appoint the peace officer.

“Restriction” means the Board’s limitation on duties allowed to be performed by a certified peace officer.

“Revocation” means the permanent withdrawal of certified status.

“Service ammunition” means munitions that perform equivalently in all respects when fired during training or qualification to those carried on duty by a peace officer.

“Service handgun” means the specific handgun or equivalent that a peace officer carries for use on duty.

“Specialty peace officer” means a peace officer whose authority is limited to enforcing specific sections of the Arizona Revised Statutes or Arizona Administrative Code, as specified by the appointing agency’s statutory powers and duties.

“Success criteria” means a numerical statement that establishes the performance needed for an individual to demonstrate competency in a knowledge, task, or ability required by this Chapter.

“Suspension” means the temporary withdrawal of certified status.

“Termination” means the end of employment or service with an agency as a peace officer through removal, discharge, resignation, retirement, or otherwise.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). Amended effective August 6, 1991 (Supp. 91-3). References to “Council” changed to “Board” (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 331, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective December 6, 2020 (Supp. 20-4).

**R13-4-102. Internal Organization and Control of the Board**

- A. Scheduled meetings. The Chair, in consultation with the Board, shall set regular meeting dates of the Board.
- B. Special meetings. Except in the case of an emergency meeting declared by the Governor or the Chair, the Chair shall give at least five days’ written notice of a special meeting to each member of the Board.
- C. Subcommittees. The Chair may appoint subcommittees to inquire into any matter of Board interest. Each subcommittee shall report its findings, conclusions, and recommendations to the Board, in a manner directed by the Chair.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to “Council” changed to “Board” (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking at 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-103. Certification of Peace Officers**

- A. Certified status mandatory. An individual who is not certified by the Board or whose certified status is inactive shall not

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

- function as a peace officer or be assigned the duties of a peace officer by an agency, except as provided in subsection (B).
- B.** Sheriffs who are elected are exempt from the requirement of certified status.
- C.** An individual shall satisfy the minimum qualifications and training requirements to receive certified status.
- D.** Peace officer categories. The categories for which certified status may be granted are:
1. Full-authority peace officer,
  2. Specialty peace officer, and
  3. Limited-authority peace officer.
- E.** Application for certification. An individual who seeks to be certified as a peace officer shall make application as follows:
1. Submit to an agency an application that contains all documents required by R13-4-105, R13-4-106(A) and (B), and R13-4-107;
  2. Obtain an appointment from the agency; and
  3. Obtain either a certificate of graduation from a Board-prescribed Peace Officer Basic Course or a certificate of successful completion of the waiver of training process prescribed by R13-4-110(D).
- F.** An open enrollee shall obtain an appointment from an agency within one year after graduating from a Board-prescribed Peace Officer Basic Course.
1. If more than one year but less than three years elapse after graduation from a Board-prescribed Peace Officer Basic Course before an open enrollee obtains an appointment from an agency, the open enrollee shall again take the CFE required under R13-4-110 and satisfactorily perform the practical demonstrations of proficiency in physical conditioning, vehicle operations, pursuit operations, and firearms, including firearms qualifications, as required under R13-4-116(E)(1).
  2. If more than three years elapse after graduation from a Board-prescribed Peace Officer Basic Course, an open enrollee shall again graduate from the Board-prescribed Peace Officer Basic Course before obtaining an appointment from an agency.
- G.** Establishing or enforcing qualifications, standards, or training requirements. The Board may waive in whole or in part any provision of this Article upon a finding that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized by the waiver. The Board may place restrictions or requirements on a peace officer as a condition of certified status.
- H.** This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1).  
Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 3201, effective January 11, 2003 (Supp. 02-3). Amended by final rulemaking at 22 A.A.R. 555, filed in the Office of the Secretary of State on February 8, 2016; effective six months after the date filed in accordance with A.R.S. § 1823 (Supp. 16-1).

**R13-4-104. Peace Officer Category Restrictions****A.** Limited-authority peace officer.

1. A limited-authority peace officer shall be in the presence and under the supervision of a full-authority peace officer when engaged in patrol or investigative activities performed to detect, prevent, or suppress crime, or to enforce criminal or traffic laws of the state, county, or municipality.

2. A limited-authority peace officer may perform the following duties without supervision of a full-authority peace officer:
    - a. Directing traffic;
    - b. Assisting with crowd control; or
    - c. Maintaining public order in the event of riot, insurrection, or disaster.
- B.** Specialty peace officer. A specialty peace officer has only the authority specified in R13-4-101.
- C.** Peace officer category change. A certified peace officer may be appointed to another peace officer category within the same agency without the background investigation and medical examination required in R13-4-105, R13-4-106, and R13-4-107 when these requirements were previously satisfied for appointment if:
1. No more than 30 days have elapsed since the peace officer's termination, and
  2. The change is to a category for which the officer is qualified under R13-4-110(A).
- D.** Inactive status. Certified status of a peace officer becomes inactive upon termination.
- E.** Lapse of certified status. The certified status of a peace officer lapses after three consecutive years on inactive status.
- F.** Reinstatement from inactive status. A peace officer whose certified status is inactive and has not lapsed may have certification reinstated if the requirements of R13-4-105 are met for the new appointment, and if appointed:
1. In the same peace officer category, or;
  2. As a specialty peace officer from inactive status as a full-authority peace officer.
- G.** Active status as a specialty or limited-authority peace officer does not prevent lapse of certified status as a full-authority peace officer.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1).  
Amended effective August 6, 1991 (Supp. 91-3).  
Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking at 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).  
Amended by final rulemaking at 26 A.A.R. 2745, effective December 6, 2020 (Supp. 20-4).

**R13-4-105. Minimum Qualifications**

- A.** Except as provided in subsection (C) or (D), an individual shall meet the following minimum qualifications before being appointed to or attending an academy:
1. Be a United States citizen;
  2. Be at least 21 years of age. An individual may attend an academy if the individual will be 21 years of age before graduating;
  3. Meet one of the following education standards:
    - a. Have a diploma from a high school recognized by the department of education of the jurisdiction from which the diploma is issued,
    - b. Have successfully completed a General Education Development (G.E.D.) examination,
    - c. Have a homeschool diploma or certificate of completion that is recognized as the equivalent of a high school diploma by the jurisdiction from which the homeschool diploma or certificate is issued, or
    - d. Have a degree from an institution of higher education accredited by an agency recognized by the U.S. Department of Education;

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

4. Undergo a complete background investigation that meets the standards of R13-4-106. An individual shall not begin an academy until the agency has completed the background investigation requirements at R13-4-106(C)(1), (C)(2), and (C)(4) through (C)(9). However, an individual may begin an academy before the results of the fingerprint query referenced in R13-4-106(C)(3) are returned. The academy shall not graduate the individual and the Board shall not reimburse the academy for the individual's training expenses until a qualifying background investigation report, as specified in R13-4-106(C)(9), is completed;
  5. Undergo a medical examination that meets the standards of R13-4-107 within one year before appointment. An agency may make a conditional offer of appointment before the medical examination. If the medical examination is conducted more than 180 days before appointment, the individual shall submit a written statement indicating that the individual's medical condition has not changed since the examination;
  6. Not have been convicted of a felony or any offense that would be a felony if committed in Arizona;
  7. Not have been dishonorably discharged from the United States Armed Forces;
  8. Not have been previously denied certified status, have certified status revoked, or have current certified status suspended, or have voluntarily surrendered certified status in lieu of possible disciplinary action in this or any other state if the reason for denial, revocation, suspension, or possible disciplinary action was or would be a violation of R13-4-109(A) if committed in Arizona;
  9. Not have illegally possessed, produced, cultivated, or transported marijuana for sale or sold marijuana;
  10. Not have illegally possessed or used marijuana for any purpose within the past two years;
  11. Not have illegally sold, produced, cultivated, or transported for sale a dangerous drug or narcotic;
  12. Not have illegally used a dangerous drug or narcotic, other than marijuana, for any purpose within the past seven years;
  13. Not have a pattern of abuse of prescription medication;
  14. Undergo a polygraph examination that meets the requirements of R13-4-106, unless prohibited by law;
  15. Not have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with a frequency within the past three years that indicates a disrespect for traffic laws or a disregard for the safety of others on the highway;
  16. Read the code of ethics in subsection (E) and affirm by signature the individual understands and agrees to abide by the code.
- B.** To determine whether an individual's possession or use of marijuana, or a dangerous drug or narcotic disqualifies the individual from being appointed or attending an academy, the Board shall use the following standards:
1. Marijuana.
    - a. All forms of marijuana, including THC extracts, cannabis, hashish, marijuana extracts, and marijuana edibles, and all forms of use will be treated the same;
    - b. The individual has not illegally possessed or used marijuana within the two years before appointment as a peace officer; and
    - c. The individual has never illegally possessed or used marijuana as a peace officer;
  2. Dangerous drugs, hallucinogens, narcotics, and prescription drugs containing an active ingredient that is a narcotic or dangerous drug.
    - a. The individual has not illegally possessed or used any of these substances:
      - i. Within the seven years before appointment as a peace officer;
      - ii. More than a total of five times for all substances combined;
      - iii. More than one time for all substances combined since turning 21 years of age; and
      - iv. As a peace officer;
    - b. Dangerous drugs. All dangerous drugs, including methamphetamine, amphetamine, speed, spice, and bath salts will be treated the same;
    - c. Hallucinogens. All hallucinogens, including peyote, mushrooms, ecstasy, lysergic acid diethylamide (LSD), ketamine, mescaline, salvia, and phencyclidine (PCP) will be treated the same;
    - d. Narcotics. All narcotics, including cocaine, heroin, and opioids will be treated the same; and
    - e. Prescription medications. All prescription medications containing an active ingredient that is a narcotic or dangerous drug will be treated the same. Possession or use for recreational purposes of a prescription medication containing an active ingredient that is a narcotic or dangerous drug is disqualifying under subsection (B)(2);
  3. Steroids.
    - a. All steroids, including anabolic-androgenic steroids and corticosteroids will be treated the same;
    - b. The individual has not illegally possessed or used a steroid within the three years before appointment as a peace officer; and
    - c. The individual has never illegally possessed or used a steroid as a peace officer;
  4. Adderall.
    - a. All uses of Adderall, except as prescribed by a physician, will be treated the same;
    - b. The individual has not possessed or used Adderall, except as prescribed by a physician, within the three years before appointment as a peace officer, and
    - c. The individual has never possessed or used Adderall, except as prescribed by a physician, as a peace officer; and
  5. Over-the-counter products containing cannabidiol (CBD). The Board does not consider possession or use of over-the-counter products containing CBD, as allowed under federal and state law, as disqualifying an individual from appointment as a peace officer.
- C.** An agency head who wishes to appoint an individual whose illegal possession or use of marijuana or a dangerous drug or narcotic is determined to be disqualifying under this Section may petition the Board for a determination that, given the unique circumstances of the individual's possession or use, the use should not be disqualifying. The petition shall:
1. Specify the type of drugs illegally possessed or used, the number of uses, the age at the time of each possession or use, the method by which the information regarding illegal possession or use of drugs came to the agency's attention, and any attempt by the agency head to verify the accuracy of the information; and
  2. State the factors the agency head wishes the Board to consider in making its determination. These factors may include:
    - a. The duration of possession or use,

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

- b. The motivation for possession or use,
  - c. The time elapsed since the last possession or use,
  - d. How the drug was obtained,
  - e. How the drug was ingested,
  - f. Why the individual stopped possessing or using the drug, and
  - g. Any other factor the agency head believes is relevant to the Board's determination.
- D.** An agency head who wishes to appoint an individual whose conduct is grounds to deny certification under R13-4-109 may petition the Board for a determination that the otherwise disqualifying conduct constitutes juvenile indiscretion. The petition shall:
1. Specify the nature of the conduct, the number of times the conduct occurred, the method by which information regarding the conduct came to the agency's attention, and any attempt by the agency head to verify the accuracy of the information; and
  2. Include sufficient information for the Board to determine that all of the following are true:
    - a. The conduct occurred when the individual was younger than age 18;
    - b. The conduct occurred more than 10 years before application for appointment;
    - c. The individual has consistently exhibited responsible, law-abiding behavior between the time of the conduct and application for appointment;
    - d. There is reason to believe that the individual's immaturity at the time of the conduct contributed substantially to the conduct;
    - e. There is evidence that the individual's maturity at the time of application makes reoccurrence of the conduct unlikely; and
    - f. The conduct was not so egregious that public trust in the law enforcement profession would be jeopardized if the individual is certified.
  3. If the Board finds that the information submitted is sufficient for the Board to determine that the factors listed in subsection (D)(2) are true, the Board shall determine that the conduct constituted juvenile indiscretion and grant appointment.
- E.** Code of Ethics. Because the people of the state of Arizona confer upon all peace officers the authority and responsibility to safeguard lives and property within constitutional parameters, a peace officer shall commit to the following Code of Ethics and shall affirm the peace officer's commitment by signing the Code.
- "I will exercise self-restraint and be constantly mindful of the welfare of others. I will be exemplary in obeying the laws of the land and loyal to the state of Arizona and my agency and its objectives and regulations. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secure unless revelation is necessary in the performance of my duty. I will never take selfish advantage of my position and will not allow my personal feelings, animosities, or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, and without favor, malice, ill will, or compromise. I am a servant of the people and I recognize my position as a symbol of public faith. I accept it as a public trust to be held so long as I am true to the law and serve the people of Arizona."
- F.** This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1).  
 Amended effective August 6, 1991 (Supp. 91-3).  
 Amended effective January 13, 1993; filed July 13, 1992 (Supp. 92-3). References to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 3201, effective January 11, 2003 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 331, effective July 10, 2006 (Supp. 06-1). Amended by final rulemaking a 22 A.A.R. 555, filed in the Office of the Secretary of State on February 8, 2016; effective six months after the date filed in accordance with A.R.S. § 1823 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective six months after filing with the Secretary of State as required under A.R.S. § 41-1823(A); filed October 7, 2020, effective date April 7, 2021 (Supp. 20-4).

**R13-4-106. Background Investigation Requirements**

- A.** Personal history statement. An individual who seeks to be appointed shall complete and submit to the appointing agency a personal history statement on a form prescribed by the Board before the start of a background investigation. The Board shall use the answers to questions contained in the personal history statement to determine whether the individual is eligible for certified status as a peace officer. The Board shall ensure that the questions concern whether the individual meets the minimum requirements for appointment, has engaged in conduct or a pattern of conduct that would jeopardize the public trust in the law enforcement profession, and is of good moral character.
- B.** Investigative requirements for the applicant. To assist with the background investigation, an individual who seeks to be appointed shall provide the following:
1. Proof of United States citizenship. A copy of a birth certificate, United States passport, or United States naturalization papers is acceptable proof.
  2. Proof of education. A copy of a diploma, certificate, or transcript is acceptable proof.
  3. Record of any military discharge. A copy of the Military Service Record (DD Form 214 or NGB Form 22), which documents the character of service, separation code, and reentry code, is acceptable proof.
  4. Personal references. The names and addresses of at least three people who can provide information as personal references.
  5. Previous employers or schools attended. The names and addresses of all employers and schools attended within the previous five years.
  6. Residence history. The complete address for every location at which the individual has lived in the last five years.
- C.** Investigative requirements for the agency. A complete background investigation includes the following inquiries and a review of the returns to determine that the individual seeking appointment meets the requirements of R13-4-105, and that the individual's personal history statement is accurate and truthful. For each individual seeking to be appointed, the appointing agency shall:
1. Query all the law enforcement agency records in jurisdictions listed in subsections (B)(5) and (B)(6);
  2. Query the motor vehicle division driving record from any state listed in subsections (B)(5) and (B)(6);
  3. Complete and submit a Fingerprint Card Inventory Sheet to the Federal Bureau of Investigation and Arizona Department of Public Safety for query;

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

4. Query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state listed in subsections (B)(5) and (B)(6);
5. Contact all personal references and employers listed in subsections (B)(4) and (B)(5) and document the answers to inquiries concerning whether the individual meets the standards of this Section;
6. Query the Board regarding the individual's certification status, reports of alleged misconduct by the individual, and whether the individual has a Board case with an RF designation;
7. Query all Arizona law enforcement agencies where the individual was appointed or applied for appointment as a peace officer regarding records maintained under R13-4-108(C);
8. Administer a polygraph examination, unless prohibited by law. The results shall include a detailed report of the pre-test interview and any post-test interview and shall cover responses to all questions that concern:
  - a. Minimum standards for appointment as required by R13-4-105,
  - b. Truthfulness on the personal history statement,
  - c. Commission of any crimes; and
  - d. Any Board case with an RF designation; and
9. If the results of the background investigation show that the individual meets minimum qualifications for appointment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character, complete a report that attests to those findings. If the agency is unable to obtain all information required under subsections (C)(1) through (C)(8), include in the report a description of the missing information and efforts made to obtain it.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). Amended effective January 13, 1993; filed July 13, 1992 (Supp. 92-3). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking at 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective December 6, 2020 (Supp. 20-4).

**R13-4-107. Medical Requirements**

- A. Medical, physical, and mental eligibility for certification.
  1. An agency may appoint an individual if the individual meets the minimum qualifications in R13-4-105 and is able to perform all the essential functions of the job of peace officer effectively, with or without reasonable accommodation, without creating a reasonable probability of substantial harm to the individual or others.
  2. If an agency wishes to appoint an individual who is unable to perform all the essential functions of the job of peace officer effectively, the agency may seek a restricted certification for the individual. The Board shall determine whether placing restrictions or requirements on the individual as a condition of certification will enable the individual to perform the essential functions authorized within the restriction without creating a reasonable probability of harm to the individual or others.
- B. Medical examination process.

1. Medical history. An individual applying to be appointed shall provide to the examining, board-trained, physician a written statement of the individual's medical history that includes past and present diseases, illnesses, symptoms, conditions, injuries, functionality, surgeries, procedures, immunizations, medications, and psychological information.
2. Medical examination.
  - a. The examining, board-trained, physician shall not delegate any part of the medical examination process to another person;
  - b. The examining, board-trained, physician shall review the medical history statement and take an additional verbal history from the applicant;
  - c. The examining, board-trained, physician shall conduct a physical examination consistent with the standard of care for occupational medical examinations;
  - d. The examining, board-trained, physician shall order tests, obtain medical records, and require specialist or functional examinations and evaluations that the examining physician deems necessary to determine the applicant's ability to perform all the essential functions of the job of peace officer;
  - e. The examining, board-trained, physician shall make a report to the agency and provide a:
    - i. Summary of the examination;
    - ii. Description of any significant medical findings;
    - iii. Description of any limitation to the ability to perform the essential functions of the job of a peace officer; and
    - iv. Medical opinion about the applicant's ability to perform the essential functions of the job of peace officer, with or without reasonable accommodations; and
  - f. The examining, board-trained, physician shall consult with the agency, upon request, about the report and the efficacy of any accommodations the agency deems reasonable.
- C. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective January 11, 2003 (Supp. 02-3). Amended by final rulemaking at 22 A.A.R. 555, filed in the Office of the Secretary of State on February 8, 2016; effective six months after the date filed in accordance with A.R.S. § 1823 (Supp. 16-1).

**R13-4-108. Agency Records and Reports**

- A. Agency reports. On forms prescribed by the Board, an agency shall submit:
  1. A report by the agency head attesting that the requirements of R13-4-105 are met for each individual appointed. The report shall be submitted to the Board before an individual attends an academy or performs the duties of a peace officer.
  2. A report of the termination of a peace officer. The report shall be submitted to the Board within 15 days of the termination and include:
    - a. The nature of the termination and effective date;
    - b. A detailed description of any termination for cause; and

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

- c. A detailed description of, and supporting documentation for, any cause existing for suspension or revocation of certified status.
- B.** Agency records. An agency shall make its records available on request by the Board or staff. The agency shall maintain the following for each individual for whom certification is sought:
1. An application file that contains all of the information required in R13-4-103(E) and R13-4-106(C) for each individual appointed for certification as a peace officer;
  2. A copy of reports submitted under subsection (A);
  3. A signed copy of the affirmation to the Code of Ethics required under R13-4-105;
  4. A written report of the results of a completed or partially completed background investigation and all written documentation obtained or recorded under R13-4-106, including information obtained regarding a Board case with an RF designation;
  5. A completed medical report required under R13-4-107; and
  6. A record of all continuing training, proficiency training, and firearms qualifications conducted under R13-4-111.
- C.** Record retention. An agency shall maintain the records required by this Section as follows:
1. For applicants investigated under R13-4-106 who are not appointed: three years;
  2. For applicants who are appointed: five years from the date of termination, except records retained under subsection (B)(6) shall be retained for three years following completion of training; and
  3. Reports of a polygraph examination given under R13-4-106(C)(6) shall be maintained in accordance with state law.
- D.** An agency shall make the records maintained under subsection (C) available, on request, to another agency completing a background investigation under R13-4-106(C).
7. Committing a felony, an offense that would be a felony if committed in this state, or an offense involving dishonesty, unlawful sexual conduct, or physical violence;
  8. Committing malfeasance, misfeasance, or nonfeasance in office;
  9. Performing the duties or exercising the authority of a peace officer without having active certified status;
  10. Making a false or misleading statement, written or oral, to the Board or its representative;
  11. Failing to furnish information in a timely manner to the Board or its representative on request; or
  12. Engaging in any conduct or pattern of conduct that tends to disrupt, diminish, or otherwise jeopardize public trust in the law enforcement profession.
- B.** Cause for cancellation. The Board shall cancel the certified status of a peace officer if the Board determines that the individual was not qualified when certified status was granted, and revocation is not warranted under subsection (A).
- C.** Cause for mandatory revocation. Upon the receipt of a certified copy of a judgment of a felony conviction of a peace officer, the Board shall revoke certified status of the peace officer.
- D.** Action by the Board. Upon receipt of information that cause exists to deny certification, or to cancel, suspend, or revoke the certified status of a peace officer, the Board shall determine whether to initiate action regarding the retention of certified status. The Board may conduct additional inquiries or investigations to obtain sufficient information to make a fair determination.
- E.** Notice of action. The Board shall notify the affected individual of Board action to initiate proceedings regarding certified status for a cause listed under subsection (A) or (B). The notice shall be served as required by A.R.S. § 41-1092.04 and specify the cause for the action. Within 30 days after receiving the notice, the individual named in the notice shall advise the Board or its staff in writing whether a hearing is requested. Failure to file a written request for hearing at the Board offices within 30 days after receiving the notice constitutes a waiver of the right to a hearing.
- F.** Effect of agency action. Action by an agency or a decision resulting from an appeal of that action does not preclude action by the Board to deny, cancel, suspend, or revoke the certified status of a peace officer.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective December 6, 2020 (Supp. 20-4).

**R13-4-109. Denial, Revocation, Suspension, or Cancellation of Peace Officer Certified Status**

- A.** Causes for denial, suspension, or revocation. The Board may deny certified status or suspend or revoke the certified status of a peace officer for:
1. Failing to satisfy a minimum qualification for appointment listed in R13-4-105;
  2. Willfully providing false information in connection with obtaining or reactivating certified status;
  3. Having a medical, physical, or mental disability that substantially limits the individual's ability to perform the duties of a peace officer effectively, or that may create a reasonable probability of substantial harm to the individual or others, for which a reasonable accommodation cannot be made;
  4. Violating a restriction or requirement for certified status imposed under R13-4-109.01, R13-4-103 (G), or R13-4-104;
  5. Engaging in behavior that would be disqualifying under R13-4-105(B);
  6. Using or being under the influence of spirituous liquor on duty without authorization;

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective December 6, 2020 (Supp. 20-4).

**R13-4-109.01. Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies**

- A.** Restricted status. The Board shall restrict certified status if a peace officer fails to satisfy the requirements of R13-4-111.
1. The Board shall consider reports of training or qualification deficiencies at a regularly scheduled public meeting and provide a peace officer alleged to have a training or qualification deficiency the opportunity to be heard without referral to an independent hearing officer. At the public meeting, the Board shall determine only whether the peace officer has successfully completed the required training or qualification and can produce documentation to verify it.
  2. The Board shall leave a restriction in effect until the training or qualification requirement is met and the peace offi-

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

cer files written verification of the training or qualification with the Board.

3. The Board shall provide notice of restriction or reinstatement following a restriction under this Section by regular mail to the peace officer at the employing agency address. The Board shall provide a copy of the restriction or reinstatement notice by regular mail to the agency head.
- B.** Firearms qualification. If a peace officer fails to satisfy R13-4-111(C), the peace officer shall not carry or use a firearm on duty.
- C.** Continuing and proficiency training. If a peace officer fails to satisfy R13-4-111(A) or (B), the peace officer shall not engage in enforcement duties, carry a firearm, wear or display a badge, wear a uniform, make arrests, perform patrol functions, or operate a marked police vehicle.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-110. Basic Training Requirements**

- A.** Required training for certified status. The Board shall not certify and an individual shall not perform the duties of a peace officer until the individual successfully completes basic training as follows:
  1. To be certified as a full-authority peace officer, an individual shall complete the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass the CFE.
    - a. The Board shall ensure the CFE is administered in a secure manner.
    - b. The Board shall ensure that the CFE is administered during the final two weeks of the full-authority peace officer basic training course.
    - c. An individual passes the CFE by achieving a score of at least 70 percent on each of the three blocks of the CFE when each block is scored separately.
    - d. An individual who fails one or more blocks of the CFE may retake the failed block one time before the individual is scheduled to graduate from the academy.
    - e. An individual who fails a retake of a block of the CFE, as described in subsection (A)(1)(d), may retake the failed block once more within 60 days from the original testing date if the individual remains appointed by the original appointing agency or enrolled in the academy.
    - f. An individual who fails a second retake of a block of the CFE, as described in subsection (A)(1)(e), may pursue certification only by repeating the 585-hour full-authority peace officer basic training course.
    - g. An agency head is not required to continue to appoint an individual during the 60 days permitted for a second retake of a failed block of the CFE, as described in subsection (A)(1)(e).
  2. To be certified as a specialty peace officer, an individual shall complete a Board-prescribed specialty peace officer basic training course or the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a specialty peace officer.
  3. To be certified as a limited-authority peace officer, an individual shall complete a Board-prescribed limited-authority peace officer basic training course or the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a limited-authority peace officer.
- B.** Exceptions. The training requirement in subsection (A) is waived when an agency uses an individual during a:
  1. Riot, insurrection, disaster, or other event that exhausts the peace officer resources of the agency and the individual is attending an academy; or
  2. Field training program that is a component of a basic training program at an academy, and the individual is under the direct supervision and control of a certified peace officer.
- C.** Firearms training required. Unless otherwise specified in this Section, a peace officer shall complete the firearms qualification courses required in R13-4-116(E) before the peace officer carries a firearm in the course of duty.
- D.** Waiver of required training. An agency, on behalf of an individual, may apply to the Board for a waiver of required training if the individual's certified status is lapsed or the individual has functioned in the capacity of a peace officer in another state or for a federal law enforcement agency. The Board shall grant a waiver of required training if the Board determines that the best interests of the law enforcement profession are served, the public welfare and safety are not jeopardized, and:
  1. The appointing agency submits to the Board written verification of the individual's previous experience and training on a form prescribed by the Board;
  2. The individual meets the minimum qualifications listed in R13-4-105;
  3. The individual complies with the requirements of R13-4-103(E)(1);
  4. The appointing agency complies with the requirements of R13-4-106(C);
  5. The individual successfully completes an examination measuring the individual's comprehension of the 585-hour full-authority peace officer basic training course as follows:
    - a. If the individual has experience as a certified peace officer in another state or for a federal law enforcement agency and submits to the Board basic training and in-service training records that the Board determines demonstrate substantial comparability to Arizona's 585-hour full-authority peace officer basic training course, the individual shall pass all blocks of the CFE; and
    - b. If the individual's certification is lapsed, the individual shall pass all blocks of the CFE; and
    - c. The provisions in subsections (A)(1)(c) through (f) apply to this subsection; and
  6. In addition to the examination required under subsection (D)(5), the individual demonstrates proficiency in the areas of physical conditioning, vehicle operations, pursuit operations, and firearms, including firearms qualifications, as required under R13-4-116(E)(1).
- E.** This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 3201, effective January 11, 2003 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 331, effective July 10, 2006 (Supp. 06-1). Amended by final rulemaking a 22 A.A.R. 555, filed in

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

the Office of the Secretary of State on February 8, 2016; effective six months after the date filed in accordance with A.R.S. § 1823 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective six months after filing with the Secretary of State as required under A.R.S. § 41-1823(A); filed October 7, 2020, effective date April 7, 2021 (Supp. 20-4).

**R13-4-111. Certification Retention Requirements****A. Continuing training required.**

1. A full-authority, specialty, or limited-authority peace officer shall complete eight hours of continuing training each year beginning January 1 following the date the officer is certified.
2. Continuing training course standards for peace officers. The provider of a continuing training course for peace officers shall ensure that:
  - a. The course curriculum consists of instruction on topics related to law enforcement operations and peace officer functions and skills;
  - b. The instructor meets the requirements of R13-4-114(A)(2)(a) or (b);
  - c. An attendance verification certificate, which includes a statement that the provider believes the course meets the requirements of this Section, is given to each attendee for audit purposes;
  - d. If the training provider is an agency, an attendance roster and lesson plan or other information sufficient to determine compliance with this Section is made available upon request by the Board for Board audit;
  - e. If the training provider is an outside provider that does not seek confirmation that the course meets the requirements under subsection (A)(3)(c), a copy of the lesson plan or other information sufficient to determine compliance with this Section is given to each attendee; and
  - f. If the training provider is an outside provider that seeks and receives confirmation under subsection (A)(3)(c), a copy of the Board's written confirmation is distributed to each attendee.
3. Training providers. Courses of continuing training may be conducted by the Board, an agency, or an outside provider.
  - a. All Board-provided continuing training courses meet the requirements of this Section.
  - b. Agency-provided continuing training courses meet the requirements of this Section if all the requirements of subsection (A)(2) are met.
  - c. Outside-provider continuing training courses meet the requirements of this Section if all the requirements of subsection (A)(2) are met. The Board may inform an outside provider in writing whether a continuing training course meets these requirements if a course package is submitted to the Board, in a timely manner before the training is conducted, that includes:
    - i. A description of the training course that allows the Board to determine whether the course contains advanced or remedial instruction on one or more of the topic areas specified in R13-4-116(E)(1);
    - ii. The name of the individual, or if applicable, the institution or organization, providing the training with sufficient information to allow the Board to determine whether the requirements of R13-4-114(A)(2)(a) or (b) are met;

- iii. A course schedule listing the number of instructional hours; and
- iv. An attestation that the outside provider shall, upon request by the Board, make the lesson plan or other information sufficient to determine compliance with this Section available for Board audit, and shall ensure that the requirement of subsection (A)(2)(b) is met.

- d. The Board's confirmation that a continuing training course conducted by an outside provider meets the requirements of this Section is not an evaluation of the content of the course. Rather, confirmation indicates only that the topic of the course is consistent with R13-4-116(E)(1). Confirmation is effective as long as the information submitted to the Board under subsection (A)(3)(c) is unchanged.
- e. The Board shall withdraw confirmation that a continuing training course conducted by an outside provider meets the requirements of this Section if the Board receives information that the course content conflicts with the basic peace officer course content and the Board finds that the conflict creates an issue of public safety, liability, or ethics.
- f. If an agency wishes to host an outside-provider continuing training course:
  - i. Both the agency and outside provider shall comply with the provisions of subsections (A)(3)(c)(i) through (iii);
  - ii. The agency shall provide the confirmation described under subsection (A)(3)(c);
  - iii. The outside provider shall distribute to each attendee an attendance verification certificate described under subsection (A)(2)(c) and a copy of the confirmation received under subsection (A)(3)(f)(ii); and
  - iv. Upon request, the agency shall make available to the Board the lesson plan and other information used to determine the outside-provider continuing training course met the requirements of this Section.

4. Required records. A peace officer shall provide to the appointing agency a copy of all documents provided to the peace officer under subsection (A)(2)(c), (A)(2)(e), (A)(2)(f), or (A)(3)(f)(iii). The appointing agency shall maintain the documents and make them available, upon request by the Board, for Board audit.

**B. Proficiency training required.**

1. To retain certification, a peace officer who is not in a Sergeant or higher rank within the peace officer's appointing agency shall complete eight hours of proficiency training every three years beginning January 1, following the date the peace officer is certified.
2. Proficiency training course standards. The provider of a proficiency training course for peace officers shall ensure that:
  - a. The training requires physical demonstration of one or more performance objectives included in the 585-hour full-authority peace officer basic training course under R13-4-116 and demonstration of the use of judgment in the application of the physical act;
  - b. The curriculum consists of advanced or remedial instruction on one or more of the following topic areas:
    - i. Arrest and control tactics,

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

- ii. Tactical firearms (not the annual firearms qualification required under this Section),
  - iii. Emergency vehicle operations,
  - iv. Pursuit operations,
  - v. First aid and emergency care,
  - vi. Physical conditioning, and
  - vii. High-risk stops;
  - c. The instructor meets the requirements of R13-4-114(A)(2)(c);
  - d. An attendance verification certificate, which includes a statement that the provider believes the course meets the requirements of this Section, is given to each attendee for audit purposes; and
  - e. If the training provider is an agency, an attendance roster and lesson plan or other information sufficient to determine compliance with this Section is made available upon request by the Board for Board audit.
3. Training providers. Courses that qualify for proficiency training credit may be conducted by the Board or an agency.
- a. All Board-provided proficiency training courses meet the requirements of this Section.
  - b. Agency-provided proficiency training courses meet the requirements of this Section if all the requirements of subsection (B)(2) are met.
4. Required records. A peace officer shall provide to the appointing agency a copy of the document provided to the peace officer under subsection (B)(2)(d). The appointing agency shall maintain and make the document available, upon request by the Board, for Board audit.
- C. Firearms qualification required.** A peace officer authorized to carry a firearm shall qualify to continue to be authorized to carry a firearm each year beginning January 1 following certification by completing a Board-prescribed firearms qualification course, using a service handgun and service ammunition, and a Board-prescribed target identification and judgment course.
- 1. Firearms qualification course standards.
    - a. A firearms qualification course is a course:
      - i. Prescribed under R13-4-116(E)(1), or
      - ii. Determined by the Board to measure firearms competency at least as accurately as courses prescribed under R13-4-116(E)(1).
    - b. The provider of a firearms qualification course shall ensure that the course includes:
      - i. A timed accuracy component;
      - ii. A type and style of target that is equal to, or more difficult than, targets used in a course prescribed under R13-4-116(E)(1); and
      - iii. A success criterion that is equal to, or more difficult than, criteria used in a course prescribed under R13-4-116(E)(1).
  - 2. Firearms target identification and judgment course standards.
    - a. A firearms target identification and judgment course is a course:
      - i. Prescribed under R13-4-116(E)(1), or
      - ii. Determined by the Board to measure target identification and judgment competency at least as accurately as courses prescribed under R13-4-116(E)(1).
    - b. The provider of a firearms target identification and judgment course shall ensure that the course includes:
      - i. A timed accuracy component;
      - ii. A type and style of target discrimination test that is equal to, or more difficult than, those used in a course prescribed under R13-4-116(E)(1); and
      - iii. A success criterion that is equal to, or more difficult than, criteria used in a course prescribed under R13-4-116(E)(1).
3. The provider of a firearms qualification or firearms target identification and judgment course shall ensure that the course is taught by a firearms instructor who meets the requirements of R13-4-114(A)(2)(c).
- D.** This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3201, effective January 11, 2003 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 331, effective July 10, 2006 (Supp. 06-1). Amended by final rulemaking a 22 A.A.R. 555, filed in the Office of the Secretary of State on February 8, 2016; effective six months after the date filed in accordance with A.R.S. § 1823 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective six months after filing with the Secretary of State as required under A.R.S. § 41-1823(A); filed October 7, 2020, effective date April 7, 2021 (Supp. 20-4).

**R13-4-112. Time Frames**

- A.** For the purposes of A.R.S. § 41-1073, the Board establishes the following time frames for peace officer certification:
- 1. Administrative completeness review time frame: 90 days.
  - 2. Substantive review time frame: 180 days.
  - 3. Overall time frame: 270 days.
- B.** The administrative completeness review time frame begins on the date the Board receives the report required by R13-4-108(A)(1) from an appointing agency.
- 1. Within 90 days, the Board shall review the report and issue to the appointing agency a notice of administrative completeness or a notice of administrative deficiency that lists each document or item of information establishing compliance with R13-4-105 that is missing.
  - 2. If the Board issues a notice of administrative deficiency, the appointing agency shall make the missing documents and information available to the Board within 90 days of the date of the notice. The administrative completeness review time frame is suspended from the date of the deficiency notice until the date the missing documents and information are made available to the Board.
  - 3. If the appointing agency fails to make available all missing documents and information within the 90 days provided, the Board shall close the applicant's file. An applicant whose file is closed and who wants to be certified shall apply again under R13-4-103.
  - 4. When the file is administratively complete, the Board shall provide written notice of administrative completeness to the appointing agency.
- C.** The substantive review time frame begins on the date the Board issues the notice of administrative completeness.
- 1. During the substantive review time frame, the Board may make one comprehensive written request for additional information.
  - 2. The appointing agency shall make available to the Board the additional information identified in the request for

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

additional information within 60 days. The time frame for the Board to finish the substantive review of the application is suspended from the date of the request for additional information until the additional information is made available to the Board.

3. If the appointing agency fails to make available the additional information requested within the 60 days provided, the Board shall close the applicant's file. An applicant whose file is closed and who wants to be certified shall apply again under R13-4-103.
4. When the substantive review is complete, the Board shall grant or deny certification.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Adopted effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3201, effective January 11, 2003 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 331, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-113. Repealed****Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). Amended effective August 6, 1991 (Supp. 91-3). Reference to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Section repealed by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3).

**R13-4-114. Minimum Course Requirements**

**A.** Instructors. An academy administrator or agency head shall ensure that only an instructor who meets the requirements of this Section facilitates a Board-prescribed course.

1. Instructor classifications.
  - a. General instructor. An individual qualified to teach topics not requiring a proficiency instructor under subsection (A)(1)(c).
  - b. Specialist instructor. An individual, other than an Arizona peace officer, qualified to teach a topic in which the instructor has special expertise but who does not qualify for general instructor status.
  - c. Proficiency instructor. An individual qualified to teach a topic area listed in R13-4-111(B)(2)(b).
2. Instructor qualification standards.
  - a. A general instructor shall meet the following requirements:
    - i. Have two years' experience as a certified peace officer;
    - ii. Maintain instructional competency;
    - iii. Successfully complete a Board-sponsored instructor training course or an instructor training course that contains all of the performance objectives and demonstrations of the Board-sponsored instructor course.
  - b. A specialist instructor shall meet the requirements of subsections (A)(2)(b)(i) and (A)(2)(b)(ii) and either subsection (A)(2)(b)(iii) or (A)(2)(b)(iv):
    - i. Be nominated by an agency head or the administrator of an academy authorized to provide a peace officer basic training course;
    - ii. Maintain instructional competency;

- iii. Possess a professional license or certification other than a peace officer certification that relates to the topics to be taught;
  - iv. Provide documentation to the agency head or academy administrator for forwarding to the Board that demonstrates the expertise and ability to enhance peace officer training in a special field.
- c. A proficiency instructor shall meet the requirements of subsections (A)(2)(c)(i) and (A)(2)(c)(ii) and either subsection (A)(2)(c)(iii) or (A)(2)(c)(iv):
- i. Meet the requirements for general instructor;
  - ii. Maintain instructional competency;
  - iii. Successfully complete a proficiency instructor course in a topic area listed in R13-4-111(B)(2)(b) that includes a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic training course listed in R13-4-116(E);
  - iv. Complete a form prescribed by the Board that documents advanced training and experience in the topic area including a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic training course listed in R13-4-116(E);
- d. A proficiency instructor shall meet the requirements of subsection (A)(2)(c) separately for each topic area listed in R13-4-111(B)(2)(b) for which the proficiency instructor seeks qualification.

3. Instructional competency. An academy administrator or an agency head shall immediately notify the Board in writing of any instructor:
  - a. Who jeopardizes the safety of students or the public,
  - b. Whose instruction violates acceptable training standards,
  - c. Who is grossly deficient in performance as an instructor, or
  - d. Who is a proficiency instructor and fails to complete satisfactorily the competency assessment to instruct in the instructor's topic area within the 585-hour full-authority peace officer basic training course.
4. If the Board determines that an instructor fails to comply with the provisions of this Section, has an instructional deficiency, or fails to maintain proficiency, any course facilitated by the instructor does not meet the requirements of this Section.

**B.** Curriculum standards. An academy administrator or agency head shall ensure that the curriculum for a Board-prescribed course meets the following standards:

1. Curriculum.
  - a. Curriculum development employs valid, job-based performance objectives and learning activities, and promotes student, officer, and public safety, as determined by a scientifically conducted validation study of the knowledge, skills, abilities, and aptitudes needed by the affected category of Arizona peace officer.
  - b. The curriculum meets or exceeds the requirements of subsection (B)(2), unless otherwise provided in this Section.
2. Curriculum format standard. The curriculum consists of the following:
  - a. A general statement of instructional intent that summarizes the desired learning outcome, is broad in scope, and includes long-term or far-reaching learning goals;

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

- b. Lesson plans containing:
    - i. Course title,
    - ii. Hours of instruction,
    - iii. Materials and aids to be used,
    - iv. Instructional strategy,
    - v. Topic areas in outline form,
    - vi. Performance objectives or learning activities,
    - vii. Success criteria, and
    - viii. Reference material;
  - c. Performance objectives consisting of at least the following components:
    - i. The student, which is an individual or group that performs a behavior as the result of instruction;
    - ii. The behavior, which is an observable demonstration by the student at the end of instruction that shows that the objective is achieved and allows evaluation of the student's capabilities to perform the behavior; and
    - iii. The conditions, which is a description of the important conditions of instruction or evaluation under which the student performs the behavior. Unless specified otherwise within the lesson plan, instruction and evaluation will be in written or oral form;
  - d. Learning activities. A student is not required to demonstrate mastery of learning activities as a condition for successfully completing the training. Learning activities are subject areas for which performance objectives are not appropriate because either:
    - i. Reliable and meaningful assessment of mastery of the material would be extremely difficult or impossible, or
    - ii. Mastery of the material is not likely to bear a direct relationship to the ability to perform entry-level peace officer job duties; and
  - e. The following decimal numbering system to provide a logical means of organization:
    - i. Functional area (1.0, 2.0, 3.0),
    - ii. Topic area (1.1.0, 1.2.0, 1.3.0), and
    - iii. Performance objective or learning activity (1.1.1, 1.1.2, 1.1.3).
- C. The Board shall maintain and provide upon request a copy of curricula that meet the standards of this Section.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 331, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 331, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective December 6, 2020 (Supp. 20-4).

**R13-4-115. Repealed****Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Section repealed by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3).

**R13-4-116. Academy Requirements**

- A. Unless otherwise provided in this Article, only the basic training provided by an academy that the Board determines meets the standards prescribed in this Section may be used to qualify for certified peace officer status.
- B. The academy administrator shall ensure that the academy has the following:
  - 1. A classroom with adequate heating, cooling, ventilation, lighting, and space;
  - 2. Chairs with tables or arms for writing;
  - 3. Visual aid devices for classroom presentation;
  - 4. Equipment in good condition for specialized instruction;
  - 5. A safe driving range for conducting the defensive and pursuit driving course;
  - 6. A firing range with adequate backstop to ensure the safety of all individuals on or near the range; and
  - 7. A safe location for practical exercises.
- C. Administrative requirements. The academy administrator shall ensure that the academy:
  - 1. Establishes and maintains written policies, procedures, and rules concerning:
    - a. Operation of the academy,
    - b. Entrance requirements,
    - c. Student and instructor conduct, and
    - d. Administering examinations;
  - 2. Admits only individuals who meet the requirements of R13-4-105, as attested to by the appointing agency or, in the case of an open enrollee, by the academy administrator, on form A1 or A4, as applicable, which is submitted to the Board on or before the first day of training;
  - 3. Administers to each student at the beginning of each academy session a written examination prescribed by the Board measuring competency in reading and writing English;
  - 4. Schedules sufficient time for the CFE to be administered as required by R13-4-110(A); and
  - 5. Uses only instructors who are qualified under R13-4-114(A).
- D. Academic requirements. The academy administrator shall ensure that the academy:
  - 1. Establishes a curriculum with performance objectives and learning activities that meet the requirements of subsection (E) and R13-4-114(B);
  - 2. Requires instructors to use lesson plans that cover the course content and list the performance objectives to be achieved and learning activities to be used;
  - 3. Administers written, oral, or practical demonstration examinations that measure the attainment of the performance objectives;
  - 4. Reviews examination results with each student and ensures that the student is shown any necessary corrections and signs and dates an acknowledgment that the student participated in the review;
  - 5. Requires a student to complete successfully oral or written examinations that cover all topics in all functional areas before graduating.
    - a. Successful completion of an examination is a score of 70 percent or greater;
    - b. For a student who scores less than 70 percent, the academy shall:
      - i. Provide remedial training, and
      - ii. Re-examine the student in the area of deficiency; and
    - c. The academy shall allow a student to retake each examination only once;

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

6. Requires a student to qualify with firearms as described in R13-4-116(E);
  7. Ensures that a student meets the success criteria for police proficiency skills under subsection (E)(1);
  8. Provides remedial training for a student who misses a class before allowing the student to graduate; and
  9. Refuses to graduate a student who is absent more than 32 hours from the 585-hour full-authority peace officer basic training course or 16 hours from the specialty or limited-authority peace officer basic training course.
- E.** Basic course requirements. The academy administrator shall ensure that the academy uses curricula that meet the requirements of R13-4-114 for the following basic courses of instruction.
1. The 585-hour full-authority peace officer basic training course shall include all of the topics listed in each of the following functional areas:
    - a. Functional Area I - Introduction to Law Enforcement.
      - i. Criminal justice systems,
      - ii. History of law enforcement,
      - iii. Law enforcement services,
      - iv. Supervision and management,
      - v. Ethics and professionalism, and
      - vi. Stress management.
    - b. Functional Area II - Law and Legal Matters.
      - i. Introduction to criminal law;
      - ii. Laws of arrest;
      - iii. Search and seizure;
      - iv. Rules of evidence;
      - v. Summonses, subpoenas, and warrants;
      - vi. Civil process;
      - vii. Administration of criminal justice;
      - viii. Juvenile law and procedures;
      - ix. Courtroom demeanor;
      - x. Constitutional law;
      - xi. Substantive criminal law, A.R.S. Titles 4, 13, and 36; and
      - xii. Liability issues.
    - c. Functional Area III - Patrol Procedures.
      - i. Patrol and observation (part 1),
      - ii. Patrol and observation (part 2),
      - iii. Domestic violence,
      - iv. Mental illness,
      - v. Crimes in progress,
      - vi. Crowd control formations and tactics,
      - vii. Bomb threats and disaster training,
      - viii. Intoxication cases,
      - ix. Communication and police information systems,
      - x. Hazardous materials,
      - xi. Bias-motivated crimes,
      - xii. Fires, and
      - xiii. Civil Disputes.
    - d. Functional Area IV - Traffic Control.
      - i. Impaired driver cases;
      - ii. Traffic citations;
      - iii. Traffic collision investigation;
      - iv. Traffic collision (practical);
      - v. Traffic direction; and
      - vi. Substantive Traffic Law, A.R.S. Title 28.
    - e. Functional Area V - Crime Scene Management.
      - i. Preliminary investigation and crime scene management,
      - ii. Crime scene investigation (practical),
      - iii. Physical evidence procedures,
      - iv. Interviewing and questioning,
      - v. Fingerprinting,
      - vi. Sex crimes investigations,
      - vii. Death investigations including sudden infant death syndrome,
      - viii. Organized crime activity,
      - ix. Investigation of specific crimes, and
      - x. Narcotics and dangerous drugs.
    - f. Functional Area VI - Community and Police Relations.
      - i. Cultural awareness,
      - ii. Victimology,
      - iii. Interpersonal communications,
      - iv. Crime prevention, and
      - v. Police and the community.
    - g. Functional Area VII - Records and Reports. Report writing.
    - h. Functional Area VIII - Police Proficiency Skills.
      - i. First aid,
      - ii. Firearms training (including firearms qualification),
      - iii. Physical conditioning,
      - iv. High-risk stops,
      - v. Arrest and control tactics,
      - vi. Vehicle operations, and
      - vii. Pursuit operations.
    - i. Functional Area IX - Orientation and Introduction.
      - i. Examinations and reviews,
      - ii. Counseling, and
      - iii. Non-Board specified courses.
  2. The specialty peace officer basic training course shall include all of the topics necessary from the 585-hour full-authority peace officer basic training course for the curriculum to meet the requirements of R13-4-114(B).
  3. The limited-authority peace officer basic training course shall include all of the topics necessary from the 585-hour full-authority peace officer basic training course for the curriculum to meet the requirements of R13-4-114(B).
  4. Administrative functions such as orientation, introductions, examinations and reviews, and counseling are exempt from the requirements of R13-4-114(B).
- F.** Records required. The academy administrator shall ensure that the following records are maintained and made available for inspection by the Board or staff. The academy administrator shall provide to the Board copies of records upon request.
1. A record of all students attending the academy;
  2. A manual containing the policies, procedures, and rules of the academy;
  3. A document signed by each student indicating that the student received and read a copy of the academy policies, procedures, and rules;
  4. An application for each student, on a form prescribed by the Board, from the appointing agency or, in the case of an open enrollee, from the academy administrator, attesting that the requirements of R13-4-105 are met;
  5. A copy of all lesson plans used by instructors;
  6. An annually signed and dated acknowledgment that the academy administrator reviewed and approved each lesson plan used at the academy;
  7. A copy of all examinations, answer sheets or records of performance, and examination review acknowledgments;
  8. An attendance roster for all classes or other record that identifies absent students;
  9. A record of classes missed by each student and the remedial training received;
  10. A record of disciplinary actions for all students; and

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

11. A file for each student containing the student's performance history.
- G.** Reports required. The academy administrator shall submit to the Board:
1. At least 10 working days before the start of each academy session, a complete schedule of classes containing the name of the instructor for each class and the training location;
  2. No more than five working days after the start of each academy session, on a form prescribed by the Board, a roster indicating whether a student is an open enrollee or appointed and if appointed, identifying the appointing agency, and the full name and Social Security number of each student;
  3. No more than five working days after dismissing a student from the academy, notification of the dismissal and the reason;
  4. No later than the tenth day of each month, a report containing:
    - a. A summary of training activities and progress of the academy class to date;
    - b. Unusual occurrences, accidents, or liability issues; and
    - c. Other problems or matters of interest noted in the course of the academy, if not included under subsection (G)(4)(b);
  5. No more than 10 working days after the end of each academy session, a complete schedule of classes containing the name of the instructor for each class and the training location;
  6. No more than 10 working days after the end of each academy session, on a form prescribed by the Board, a roster indicating whether a student is an open enrollee or appointed and if appointed, identifying the appointing agency, and the full name and Social Security number of each student successfully completing the training.
- H.** Required inspections. Before an academy provides training to individuals seeking certification for any category of peace officer, the Board staff shall conduct an onsite inspection of the academy to determine compliance with this Section and R13-4-114. Board staff shall conduct additional inspections as often as the Board deems necessary.
1. Within 30 days after the inspection, the Board staff shall provide to the academy administrator an inspection report that lists any deficiencies identified and remedial actions the academy is required to take to comply with the standards of this Section and R13-4-114.
  2. Within 30 days after receipt of the inspection report, the academy administrator shall submit to the Board a response that indicates the progress made to complete the remedial actions necessary to correct the deficiencies described in the inspection report. The academy administrator shall submit to the Board additional responses every 30 days until all remedial action is complete.
  3. Within 30 days after receipt of notice that all remedial action is complete, Board staff shall conduct another inspection.
  4. Following each inspection, Board staff shall present an inspection report to the Board describing the academy's compliance in meeting the standards of this Section and R13-4-114.
- I.** If an academy does not conduct a peace officer basic training course for 12 consecutive months, the academy shall not provide training until Board staff conducts another inspection as required by subsection (H). Otherwise, an academy may continue to provide training unless the Board determines that the academy is not in compliance with the standards of this Section or R13-4-114.
- J.** If the Board finds that an academy fails to comply with the provisions of this Section or R13-4-114, the academy shall not provide training to individuals seeking to be certified as peace officers.
- K.** An academy administrator shall ensure that an open enrollee is admitted only after the academy administrator complies with every requirement of an agency or agency head imposed by R13-4-105, R13-4-106, R13-4-107, and R13-4-108 except for R13-4-106(C)(4).

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended effective October 20, 1995; filed with the Secretary of State April 20, 1995 (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking at 12 A.A.R. 331, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by final rulemaking at 26 A.A.R. 2745, effective December 6, 2020 (Supp. 20-4).

**R13-4-117. Training Expense Reimbursements**

- A.** Approval of training courses. The Board shall approve or deny training courses for training expense reimbursement based on compliance with this Section and R13-4-111, and availability of funds.
- B.** Application for reimbursement. Before the beginning of a training program described in R13-4-111, an agency planning to participate in the training and apply for reimbursement, shall notify the Board on prescribed forms.
- C.** Claim for reimbursement. When an individual completes a training course, the appointing agency may submit a claim for reimbursement on a form prescribed by the Board. The agency shall submit the claim within 60 days after the training is completed.
- D.** Allowable reimbursements. The Board shall allow the following reimbursements subject to the limits on the amount of reimbursement as determined by the Board under subsection (E):
1. The actual cost of lodging and meals while a peace officer attended a training course,
  2. Tuition for a training course on a pro-rata basis for the actual hours of training attended, and
  3. Other expenses incurred by a peace officer.
- E.** Limitations on reimbursements. The following limitations apply to applications for reimbursement involving training courses.
1. The Board shall not reimburse an agency if the peace officer has previously completed the same training course within three years;
  2. The Board shall not reimburse an agency for a peace officer who fails to complete a training course except upon request of the appointing agency. The agency shall present the reasons for the non-completion to the Board with the request for reimbursement; and
  3. The Board shall not reimburse an agency for the cost of insurance, medical, pension, uniform, clothing, equipment, or other benefits or expenses of a peace officer while attending a training course.
- F.** Academy reimbursement. The Board may reimburse an academy for the actual costs of materials, books, ammunition, registration fees and tuition, necessary for completion of a basic course up to the limits set by the Board. To receive reimburse-

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

ment, an academy shall furnish paid receipts or invoices or other information as required by the Board to verify costs incurred. The Board shall not reimburse an academy for costs incurred for registration fees, tuition, books, materials, or ammunition for a peace officer, if the Board has made these reimbursements for the peace officer's previous attendance at an academy.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-118. Hearings; Rehearings**

- A. If a respondent makes a request for hearing under R13-4-109(E), the hearing shall be held in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- B. If a respondent fails to comply with the requirements under R13-4-109(E) within 30 days of the notice of action sent under R13-4-109(E), the Board may consider the case based on the information available.
- C. If a respondent requests a hearing, but fails to appear at the hearing, the Board or administrative law judge may vacate the hearing. If a hearing is vacated, the Board may deem the acts and violations charged in the notice of action admitted, and impose any of the sanctions provided by A.R.S. § 41-1822(C)(1).
- D. The Board shall render a decision in writing. The Board shall serve notice of the decision on each party as required by A.R.S. § 41-1092.04.
- E. Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a Board decision to exhaust the party's administrative remedies.
- F. A party may file a motion for rehearing or review of a decision with the Board not later than 30 days after service of the Board's decision, specifying the particular grounds for the motion.
- G. The Board may grant a rehearing or review of a decision for any of the following reasons materially affecting the moving party's rights:
  1. Irregularity in the administrative proceedings, or any abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, the administrative law judge, or the prevailing party;
  3. Mistake or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the hearing;
  5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
  6. The decision was not justified by the evidence or the decision was contrary to law.
- H. The Board may affirm or modify the decision or grant a rehearing to any or all of the parties, on part or all of the issues, for any of the reasons in subsection (G). An order granting a rehearing shall specify the particular issues in the rehearing and the rehearing shall concern only the matters specified.
- I. If the Board makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board shall issue the decision as a final decision without an opportunity for rehearing or review.

**Historical Note**

Adopted effective March 23, 1989 (Supp. 89-1). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**ARTICLE 2. CORRECTIONAL OFFICERS****R13-4-201. Definitions**

The definitions in A.R.S. § 41-1661 apply to this Article. Additionally, unless the context otherwise requires:

"Academy" means the Correctional Officer Training Academy (COTA) of the Arizona Department of Corrections in Tucson, Arizona, or a satellite location authorized by the Director.

"Appointment" means the selection of an individual as a correctional officer.

"Applicant" means an individual who applies to be a correctional officer.

"Cadet" means an individual who is attending the academy and, upon graduation, will become a state correctional officer.

"Dangerous drug or narcotic" is defined in R13-4-101.

"Department" means the Arizona Department of Corrections.

"Experimentation" means the illegal use of marijuana, a dangerous drug, or narcotic, as described in R13-4-105(B) and (C).

"State correctional officer" means an individual employed by the Department in the correctional officer series.

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). Reference to "Council" changed to "Board" and definitions relabeled accordingly (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-202. Uniform Minimum Standards**

- A. To be admitted to the academy for training as a state correctional officer, an individual shall:
  1. Be a citizen of the United States or eligible to work in the United States;
  2. Be at least 18 years of age by the date of graduation from the academy;
  3. Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination or equivalent as specified in R13-4-203(C)(3);
  4. Have a valid Arizona driver's license (Class 2 or higher) by the date of graduation from the academy;
  5. Undergo a complete background investigation that meets the standards of R13-4-203;
  6. Undergo a physical examination (within 12 months before appointment) as prescribed by the Director by a licensed physician designated by the Director;
  7. Not have been dishonorably discharged from the United States Armed Forces;
  8. Not have experimented with marijuana within the past 12 months;
  9. Not have experimented with a dangerous drug or narcotic within the past five years;
  10. Not have ever illegally used marijuana, or a dangerous drug or narcotic other than for experimentation;
  11. Not have a pattern of abuse of prescription medication; and

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

12. Not have committed a felony or a misdemeanor of a nature that the Board determines has a reasonable relationship to the functions of the position, in accordance with A.R.S. § 13-904(E).

- B.** If the Director wishes to appoint an individual whose conduct is grounds to deny certification under R13-4-109, the Director may petition the Board for a determination that the otherwise disqualifying conduct constitutes juvenile indiscretion by complying with R13-4-105(D).
- C.** Code of Ethics. To enhance the quality of performance and the conduct and the behavior of correctional officers, an individual appointed to be a correctional officer shall commit to the following Code of Ethics and shall affirm the commitment by signing the Code:

“I shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism, or partisan demands. I shall be courteous, considerate, and prompt when dealing with the public, realizing that I serve the public. I shall maintain mutual respect and professional cooperation in my relationships with other staff members.

I shall be firm, fair, and consistent in the performance of my duties. I shall treat others with dignity, respect, and compassion, and provide humane custody and care, void of all retribution, harassment, or abuse. I shall uphold the Constitutions of the United States and the state of Arizona, and all federal and state laws. Whether on or off duty, in uniform or not, I shall conduct myself in a manner that will not bring discredit or embarrassment to my agency or the state of Arizona.

I shall report without reservation any corrupt or unethical behavior that could affect either inmates, employees, or the integrity of my agency. I shall not use my official position for personal gain. I shall maintain confidentiality of information that has been entrusted to me and designated as such.

I shall not permit myself to be placed under any kind of personal obligation that could lead any person to expect official favors. I shall not accept or solicit from anyone, either directly or indirectly, anything of economic value such as a gift, gratuity, favor, entertainment, or loan, that is or may appear to be, designed to influence my official conduct. I will not discriminate against any inmate, employee, or any member of the public on the basis of race, gender, creed, or national origin. I will not sexually harass or condone sexual harassment of any person. I shall maintain the highest standards of personal hygiene, grooming, and neatness while on duty or otherwise representing the state of Arizona.”

#### Historical Note

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). Reference to “Council” changed to “Board” (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by exempt rulemaking, under Laws 2019, Chapter 93, at 25 A.A.R. 1267, with an immediate effective date of April 24, 2019 (Supp. 19-2).

#### R13-4-203. Background Investigation

- A.** The Department shall conduct a background investigation before an applicant is admitted to the academy. The Department shall review the personal history statement submitted under subsection (B) and the results of the background investigation required in subsection (C) to determine whether the

individual meets the requirements of R13-4-202 and the individual’s personal history statement is accurate and truthful.

- B.** Personal history. An applicant shall complete and submit to the employing agency a personal history statement on a form prescribed by the Board. The applicant shall complete the personal history statement before the start of the background investigation and ensure that the personal history statement provides the information necessary for the Department to conduct the investigation described in subsection (C).
- C.** Investigative requirements. Before admitting an applicant to the academy, the Department shall collect, verify, and retain documents establishing that the applicant meets the standards specified in this Article. At a minimum, this documentation shall include:
1. Proof of the applicant’s age and United States citizenship or eligibility to work in the United States. A copy of any of the following regarding the applicant is acceptable proof:
    - a. Birth certificate,
    - b. United States passport,
    - c. Certification of United States Naturalization,
    - d. Certificate of Nationality, or
    - e. Immigration Form I-151 or I-1551.
  2. Proof of the applicant’s valid driver’s license. A copy of the applicant’s driver’s license and written verification of the applicant’s driving record from the applicable state’s Department of Transportation, Motor Vehicle Division, is required proof.
  3. Proof that the applicant is a high school graduate or its equivalent. The following are acceptable proof:
    - a. A copy of a diploma from a high school recognized by the department of education of the jurisdiction in which the diploma is issued;
    - b. A copy of a certificate showing successful completion of the General Education Development (G.E.D.) test; or
    - c. In the absence of proof of high school graduation or successful completion of the G.E.D. test,
      - i. A copy of a degree or transcript from an accredited college or university showing successful completion of high school or high school equivalency;
      - ii. A United States Military Service Record DD Form 214-#4 with the Education block indicating high school completion, or
      - iii. Other evidence of high school education equivalency submitted to the Board for consideration.
  4. Record of any military discharge. A copy of the Military Service Record (DD Form 214-#4) is acceptable proof.
  5. Results of a psychological fitness assessment approved by the Director and conducted by a psychologist or psychiatrist designated by the Department.
  6. Personal references: The names and addresses of at least three individuals who can provide information regarding the applicant.
  7. Previous employers or schools attended. The names and addresses of all employers of and schools attended by the applicant for the past five years.
  8. Residence history. The complete address for every location at which the applicant has lived in the last five years.
  9. Law enforcement agency records. The Department shall request and review law enforcement agency records in jurisdictions where the applicant has lived, worked, or attended school in the past five years. The Department shall document the information obtained.

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

10. Criminal history query. The Department shall query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state where the applicant has lived, worked, or attended school in the past five years and review the criminal history record for any arrest or conviction to determine compliance with R13-4-202.
11. Fingerprint card. The Department shall obtain from an applicant and submit a fingerprint card for processing by the Arizona Department of Public Safety and the Federal Bureau of Investigation.
  - a. The Department shall process a fingerprint card for an applicant entering the academy, except as provided in subsections (C)(9)(b) and (C)(9)(c). The Department shall process a fingerprint card for an applicant even if the applicant has a processed applicant fingerprint card from a previous employer.
  - b. If the fingerprint card is not fully processed when the applicant is ready to enter the academy, the Department may allow the applicant to attend the academy if:
    - i. A computerized criminal history check has been made and the results are on file with the Department, and
    - ii. The applicant meets all other requirements of this Section and R13-4-202.
  - c. If the Department has not received a fully processed fingerprint card within 15 weeks of the date of admission to the academy, the individual does not meet the requirements of this Section and may be terminated from the academy. The Department may extend the deadline for receipt of a processed fingerprint card an additional 15 weeks. An individual terminated from the academy under this subsection may be re-employed under R13-4-208 when a fully processed fingerprint card is received.
2. For applicants who are appointed: five years from the date of termination, except records retained under subsection (B)(3), shall be retained for three years.

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-205. Basic Training Requirements**

- A. Required training for state correctional officers. Before appointment as a state correctional officer, an individual shall complete a Board-approved basic correctional officer training program. This program shall meet or exceed the requirements of this Section.
- B. Curricula or training material approval time frames.
  1. For the purposes of A.R.S. § 41-1073, the Board establishes the following time frames for curricula or training material that require Board approval under this Section and R13-4-206.
    - a. Administrative completeness time frame: 60 days.
    - b. Substantive review time frame: 60 days.
    - c. Overall time frame: 120 days.
  2. The administrative completeness review time frame begins on the date the Board receives the documents required by this Section or R13-4-206.
    - a. Within 60 days, the Board shall review the documents and issue to the Department a statement of administrative completeness or a notice of administrative deficiencies that lists each item required by this Section that is missing.
    - b. If the Board issues a notice of administrative deficiency, the Department shall submit the missing documents and information within 90 days of the notice. The administrative completeness time frame is suspended from the date of the deficiency notice until the date the Board receives the missing documents and information.
    - c. If the Department fails to provide the missing documents within the 90 days provided, the Board shall deny the approval.
    - d. When the file is administratively complete, the Board shall provide written notice of administrative completeness to the Department.
  3. The substantive review time frame begins on the date the Board issues the notice of administrative completeness.
    - a. During the substantive review time frame, the Board may make one comprehensive written request for additional information.
    - b. The Department shall submit to the Board the additional information identified in the request for additional information within 60 days. The time frame for the Board to finish the substantive review of the application is suspended from the date of the request for additional information until the Board receives the additional information.
    - c. The Board shall deny the approval if the additional information is not supplied within the 60 days provided.
    - d. When the substantive review is complete, the Board shall grant or deny approval.
- C. Basic course specifications.
  1. The Department shall develop the curriculum for the basic correctional officer training program.

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). Reference to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-204. Records and Reports**

- A. Reports. The Department shall submit to the Board a report by the Director attesting that each individual completing the academy meets the requirements of R13-4-202.
- B. Records. The Department shall make Department records available to the Board upon request of the Board or its staff. The Department shall keep the records in a central location. The Department shall maintain:
  1. A copy of reports submitted under subsection (A);
  2. All written documentation obtained or recorded under R13-4-202 and R13-4-203; and
  3. A record of all advanced training, specialized training, continuing education, and firearms qualification conducted under R13-4-206.
- C. Record retention. The Department shall maintain the records required by this Section as follows:
  1. For applicants investigated under R13-4-203 who are not appointed: two years; and

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

- a. The curriculum shall include courses in the following functional areas.
    - i. Functional Area I - Ethics and Professionalism;
    - ii. Functional Area II - Inmate Management;
    - iii. Functional Area III - Legal Issues;
    - iv. Functional Area IV - Communication Skills;
    - v. Functional Area V - Officer Safety, including firearms;
    - vi. Functional Area VI - Applied Skills;
    - vii. Functional Area VII - Security, Custody, and Control;
    - viii. Functional Area VIII - Conflict and Crisis Management; and
    - ix. Functional Area IX - Medical Emergencies, and Physical and Mental Health.
  - b. The curriculum shall also contain administrative time for orientation, counseling, testing, and remedial training.
2. The Department shall ensure that curriculum submitted to the Board for approval contains lesson plans that include:
    - a. Course title,
    - b. Hours of instruction,
    - c. Materials and aids to be used,
    - d. Instructional strategy,
    - e. Topic areas in outline form,
    - f. Success criteria, and
    - g. The performance objectives or learning activities to be achieved.
  3. After initial approval by the Board, the Director or the Director's designee shall:
    - a. Annually review each lesson plan submitted to and approved by the Board under subsection (C)(2); and
    - b. If an approved lesson plan has been changed, submit the changed lesson plan to the Board for approval; or
    - c. If an approved lesson plan has not been changed, sign and date an acknowledgment of approval for each lesson plan.
  4. The Department shall ensure that the following three components are specified for each performance objective:
    - a. The learner, which is an individual or group that performs a behavior as the result of instruction;
    - b. The behavior, which is an observable demonstration by the learner at the end of instruction that shows that the objective is achieved and allows evaluation of the learner's capabilities relative to the behavior;
    - c. The conditions, which is a description of the important conditions of instruction or evaluation under which the learner will perform the stated behavior. Unless specified otherwise, the instruction and evaluation shall be in written or oral form.
  5. The Department shall ensure that instructors of basic correctional officer training courses meet proficiency requirements developed by the Department and approved by the Board. The Department shall ensure that proficiency requirements for instructors include education, experience, or a combination of both. The Department shall affirm to the Board that each instructor has the necessary qualifications before the instructor delivers any instruction. In addition to these requirements, instructors of courses dealing with the proficiency skills of defensive tactics, physical conditioning, firearms, and medical emergencies shall complete specialized training developed by the Department and approved by the Board. Instructors shall use lesson plans described in subsection (C)(2).
- D. Academic requirements.**
1. A cadet shall be given a combination of written, oral, or practical demonstration examinations capable of measuring the cadet's attainment of the performance objectives in each approved lesson plan.
  2. Academy staff shall review examination results and academic progress with each cadet weekly. Academy staff shall ensure that each cadet is informed of correct responses.
  3. A cadet shall complete all examinations before graduating from the academy. To successfully complete a written or oral examination, a cadet shall score at least 70 percent.
    - a. If a cadet receives a score of less than 70 percent, the academy shall provide the cadet with remedial training in areas of deficiency.
    - b. The academy shall not offer a cadet more than one re-examination per lesson plan.
  4. A cadet shall qualify with firearms as specified in subsection (C). Firearms qualification shall include:
    - a. 50-shot daytime or nighttime qualification course with service handgun. The minimum passing score is 210 points out of a possible 250 points;
    - b. Seven-shot qualification course with service shotgun; and
    - c. Target identification and discrimination course.
  5. A cadet shall meet success criteria described in the Board-approved curriculum for the proficiency skills of self-defense, physical conditioning, and medical emergencies, as approved under R13-4-205(C).
  6. The academy shall provide a cadet who does not attend a lesson with remedial training before graduation.
  7. The academy shall not graduate a cadet who attends less than 90 percent of the total hours of basic training.
- E. Exceptions. A cadet shall not function as a state correctional officer except:**
1. As a part of an exercise within the approved basic training program, if the cadet is under the direct supervision and control of a state correctional officer; or
  2. At the discretion of the Director, for the duration of an emergency situation including, but not limited to, riots, insurrections, and natural disasters. A cadet shall not carry a firearm in the course of duty unless the cadet has successfully met the requirement of R13-4-205(D)(4).
- F. Waiver of required training. The Board shall grant a complete or partial waiver of the required basic training, at the request of the Director, upon a finding by the Board that the best interests of the corrections profession are served and the public welfare and safety is not jeopardized by the waiver if an applicant:**
1. Successfully completes a basic corrections officer training course comparable to or exceeding, in hours of instruction and subject matter, the Board-approved basic correctional officer training course and has a minimum of one year of experience as a correctional officer. The applicant shall include verification of previous experience and training with the application for waiver;
  2. Meets the minimum qualifications specified in R13-4-202; and
  3. Successfully completes a comprehensive examination measuring comprehension of the basic correctional officer training course. The comprehensive examination shall be prepared by the Department, approved by the Board, and include a written test and practical demonstrations of proficiency in firearms, physical conditioning, and defensive tactics.

## CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-206. Field Training and Continuing Training Including Firearms Qualification**

- A. Field training requirement. Before graduating from the academy or within two months after graduation, a cadet or state correctional officer shall participate in and successfully complete a Board-approved field training program.
- B. Continuing training requirement.
1. A state correctional officer shall receive eight hours of Board-approved continuing training each calendar year beginning January 1 following the date the officer received certified status.
  2. In addition to the training required under subsection (B)(1), a state correctional officer authorized to carry a firearm shall qualify each calendar year after appointment beginning January 1 following the date the officer received certified status. The firearms qualification training shall meet the standards specified under subsection (F) and shall not be used to satisfy the requirements of R13-4-206 (C).
- C. Continuing training requirements may be fulfilled by:
1. Advanced training programs, or
  2. Specialized training programs.
- D. Advanced training programs. The Department shall develop, design, implement, maintain, evaluate, and revise advanced training programs that include courses enhancing a correctional officer's knowledge, skills, or abilities for the job that the correctional officer performs. The courses within an advanced training program shall include advanced or remedial training in any topic listed in R13-4-205(C).
- E. Specialized training programs. The Department shall develop, design, implement, maintain, evaluate, and revise specialized training programs that address a particular need of the Department and target a select group of officers. The courses within a specialized training program shall include topics different from those in the basic corrections training program or any advanced training programs.
- F. Firearms qualification required. A correctional officer authorized to carry a firearm shall qualify to continue to be authorized to carry a firearm each calendar year beginning the year following the receipt of certified status by completing a Board-prescribed firearms qualification course using a service handgun, service shotgun, and service ammunition, and a Board-prescribed target identification and judgment course.
1. Firearms qualification course standards.
    - a. A firearms qualification course is:
      - i. A course prescribed under R13-4-205(C); or
      - ii. A course determined by the Board to measure firearms competency at least as accurately as the course prescribed under R13-4-205(C).
    - b. All firearms qualification courses shall include:
      - i. A timed accuracy component;
      - ii. A type and style of target that is equal to, or more difficult than, the targets used under R13-4-205(C); and

- iii. Success criteria that are equal to, or more difficult than, the success criteria used under R13-4-205(C).
2. Firearms target identification and judgment course standards.
    - a. A firearms target identification and judgment course is:
      - i. A course prescribed under R13-4-205(C); or
      - ii. A course determined by the Board to measure target identification and judgment competency at least as accurately as those prescribed under R13-4-205(C).
    - b. All firearms target identification and judgment courses shall include:
      - i. A timed accuracy component;
      - ii. A type and style of target discrimination that is equal to, or more difficult than, those used under R13-4-205(C); and
      - iii. Success criteria that are equal to, or more difficult than, those used under R13-4-205(C).
  3. All courses shall be presented by a firearms instructor who meets the requirements under R13-4-205(C)(5).

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

**R13-4-207. Repealed****Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). References to "Council" changed to "Board" (Supp. 94-3). Section repealed by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3).

**R13-4-208. Re-employment of State Correctional Officers**

- A. A state correctional officer who terminates employment may be re-employed by the Department within two years from the date of termination if the former state correctional officer meets the requirements of R13-4-202 and R13-4-203 at the time of re-employment.
- B. A state correctional officer who terminates employment may be re-employed by the Department if re-employment is sought more than two years but less than three years from the original date of termination, if the former state correctional officer meets the requirements of R13-4-202 and R13-4-203 at the time of re-employment and completes the waiver provisions of R13-4-205(F).
- C. A former state correctional officer who seeks re-employment more than three years from the date of termination shall meet all the requirements of this Article at the time of re-employment.

**Historical Note**

Adopted effective December 16, 1992, filed June 16, 1992 (Supp. 82-2). Amended by final rulemaking at 8 A.A.R. 3201, effective July 11, 2002 (Supp. 02-3). Amended by final rulemaking a 22 A.A.R. 555, effective April 8, 2016 (Supp. 16-1).

As of February 17, 2022

41-1821. Arizona peace officer standards and training board; membership; appointment; term; vacancies; meetings; compensation; acceptance of grants

A. The Arizona peace officer standards and training board is established and consists of thirteen members appointed by the governor. The membership shall include:

1. Two sheriffs, one of whom is appointed from a county having a population of two hundred thousand or more persons and the remaining sheriff who is appointed from a county having a population of less than two hundred thousand persons.

2. Two chiefs of police, one of whom is appointed from a city or federally recognized Native American tribe having a population of sixty thousand or more persons and the remaining chief who is appointed from a city or federally recognized Native American tribe having a population of less than sixty thousand persons.

3. A college faculty member in public administration or a related field.

4. The attorney general.

5. The director of the department of public safety.

6. The director of the state department of corrections.

7. One member who is employed in administering county or municipal correctional facilities.

8. Two certified law enforcement officers who have knowledge of and experience in representing peace officers in disciplinary cases. One of the certified law enforcement officers must have a rank of officer and the other must have a rank of deputy. One of the appointed officers must be from a county with a population of less than five hundred thousand persons.

9. Two public members.

B. Before appointment by the governor, a prospective member of the board shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

C. The governor shall appoint a chairman from among the members at its first meeting and every year thereafter, except that an ex officio member shall not be appointed chairman. The governor shall not appoint more than one member from the same law enforcement agency. No board member who was qualified when appointed becomes disqualified unless the member ceases to hold the office that qualified the member for appointment.

D. Meetings shall be held at least quarterly or on the call of the chairman or by the written request of five members of the board or by the governor. A vacancy on the board shall occur when a member except an ex officio member is absent without the permission of the chairman from three consecutive meetings. The governor may remove a member except an ex officio member for cause.

E. The term of each regular member is three years unless a member vacates the public office that qualified the member for this appointment.

F. The board members are not eligible to receive per diem but are eligible to receive reimbursement for travel expenses pursuant to title 38, chapter 4, article 2.

G. On behalf of the board, the executive director may seek and accept contributions, grants, gifts, donations, services or other financial assistance from any individual, association, corporation or other organization having an interest in police training, and from the United States of America and any of its agencies or instrumentalities, corporate or otherwise. Only the executive director of the board may seek monies pursuant to this subsection. Such monies shall be deposited in the fund created by section 41-1825.

H. Membership on the board shall not constitute the holding of an office, and members of the board shall not be required to take and file oaths of office before serving on the board. No member of the board shall be disqualified from holding any public office or employment nor shall such member forfeit any such office or employment by reason of such member's appointment, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

#### 41-1822. Powers and duties of board; definition

A. With respect to peace officer training and certification, the board shall:

1. Establish rules for the government and conduct of the board, including meeting times and places and matters to be placed on the agenda of each meeting.

2. Make recommendations, consistent with this article, to the governor, the speaker of the house of representatives and the president of the senate on all matters relating to law enforcement and public safety.

3. Prescribe reasonable minimum qualifications for officers to be appointed to enforce the laws of this state and the political subdivisions of this state and certify officers in compliance with these qualifications. Notwithstanding any other law, the qualifications shall require United States citizenship, shall relate to physical, mental and moral fitness and shall govern the recruitment, appointment and retention of all agents, peace officers and police officers of every political subdivision of this state. The board shall constantly review the qualifications established by this section and may amend the qualifications at any time, subject to the requirements of section 41-1823.

4. Prescribe minimum courses of training and minimum standards for training facilities for law enforcement officers. Only this state and political subdivisions of this state may conduct basic peace officer training. Basic peace officer academies may admit individuals who are not peace officer cadets only if a cadet meets the minimum qualifications established by paragraph 3 of this subsection. Training shall include:

(a) Courses in responding to and reporting all criminal offenses that are motivated by race, color, religion, national origin, sexual orientation, gender or disability.

(b) Training certified by the director of the department of health services with assistance from a representative of the board on the nature of unexplained infant death and the handling of cases involving the unexplained death of an infant.

(c) Medical information on unexplained infant death for first responders, including awareness and sensitivity in dealing with families and child care providers, and the importance of forensically competent death scene investigations.

(d) Information on the protocol of investigation in cases of an unexplained infant death, including the importance of a consistent policy of thorough death scene investigation.

(e) The use of the infant death investigation checklist pursuant to section 36-3506.

(f) If an unexplained infant death occurs, the value of timely communication between the medical examiner's office, the department of health services and appropriate social service agencies that address the issue of infant death and bereavement, to achieve a better understanding of these deaths and to connect families to various community and public health support systems to enhance recovery from grief.

5. Recommend curricula for advanced courses and seminars in law enforcement and intelligence training in universities, colleges and community colleges, in conjunction with the governing body of the educational institution.

6. Make inquiries to determine whether this state or political subdivisions of this state are adhering to the standards for recruitment, appointment, retention and training established pursuant to this article. The failure of this state or any political subdivision to adhere to the standards shall be reported at the next regularly scheduled meeting of the board for action deemed appropriate by that body.

7. Employ an executive director and other staff as are necessary to fulfill the powers and duties of the board in accordance with the requirements of the law enforcement merit system council.

B. With respect to state department of corrections correctional officers, the board shall:

1. Approve a basic training curriculum of at least two hundred forty hours.

2. Establish uniform minimum standards. These standards shall include high school graduation or the equivalent and a physical examination as prescribed by the director of the state department of corrections.

3. Establish uniform standards for background investigations, including criminal histories under section 41-1750, of all applicants before enrolling in the academy. The board may adopt special procedures for extended screening and investigations in extraordinary cases to ensure suitability and adaptability to a career as a correctional officer.

4. Issue a certificate of completion to any state department of corrections correctional officer who satisfactorily complies with the minimum standards and completes the basic training program. The board may issue a certificate of completion to a state department of corrections correctional officer who has received comparable training in another state if the board determines that the training was at least equivalent to that provided by the academy and if the person complies with the minimum standards.

5. Establish continuing training requirements and approve curricula.

C. With respect to peace officer misconduct, the board may:

1. Receive complaints of peace officer misconduct from any person, request law enforcement agencies to conduct investigations and conduct independent investigations into whether an officer is in compliance with the qualifications established pursuant to subsection A, paragraph 3 of this section.

2. Receive a complaint of peace officer misconduct from the president or chief executive officer of a board recognized law enforcement association that represents the interests of certified law enforcement officers if the association believes that a law enforcement agency refused to investigate or made findings that are contradictory to prima facie evidence of a violation of the qualifications established pursuant to subsection A, paragraph 3 of this section. If the board finds that the law enforcement agency refused to investigate or made findings that contradicted prima facie evidence of a violation of the qualifications

established pursuant to subsection A, paragraph 3 of this section, the board shall conduct an independent investigation to determine whether the officer is in compliance with the qualifications established pursuant to subsection A, paragraph 3 of this section and provide a letter of the findings based on the investigation conducted by the board to the president or chief executive officer of the board recognized law enforcement association who made the complaint.

D. The board may:

1. Deny, suspend, revoke or cancel the certification of an officer who is not in compliance with the qualifications established pursuant to subsection A, paragraph 3 of this section.
2. Provide training and related services to assist state, tribal and local law enforcement agencies to better serve the public, including training for emergency alert notification systems.
3. Enter into contracts to carry out its powers and duties.

E. This section does not create a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation.

F. For the purposes of this section, "sexual orientation" means consensual homosexuality or heterosexuality.

#### 41-1823. Adoption of minimum qualifications; certification required

A. No minimum qualifications for law enforcement officers adopted pursuant to this article shall be effective until six months after they have been filed with the secretary of state pursuant to section 41-1031.

B. Except for agency heads duly elected as required by the constitution and persons given the authority of a peace officer pursuant to section 8-205, 11-572, 12-253, 13-916 or 22-131, no person may exercise the authority or perform the duties of a peace officer unless he is certified by the board pursuant to section 41-1822, subsection A, paragraph 3.

#### 41-1824. Training expenditures

In exercising its powers and duties, the board shall endeavor to minimize costs of administration, including utilization of training facilities already in existence and available, so that the greatest possible proportion of the funds available to it shall be expended for the purposes of providing training for local law enforcement officers.

#### 41-1825. Peace officers' training fund

A. A special fund designated as the peace officers' training fund is established. All monies deposited in the fund are continuously appropriated to the department of public safety for the benefit of the board. The monies shall be used exclusively for the costs of training peace officers, including Indian tribe police officers who are training to be qualified pursuant to section 13-3874 and full authority peace officers who are appointed by the director of the state department of corrections and the director of the department of juvenile corrections, for grants to state agencies, counties, cities and towns of this state for peace officer training and for expenses for the operation of the board. No peace officers' training fund monies may be spent for training correctional officers of the state department of corrections.

B. All amounts to be paid or advanced from the fund shall be on warrants drawn by the department of administration on presentation of a proper claim or voucher that is approved and signed by the executive director.

C. The executive director shall lawfully disburse monies as approved by the board.

D. The board may use and the department of public safety shall provide to the board administrative support services. The board shall reimburse the department for expenses incurred for administrative support services. This subsection does not require the department to provide administrative support services that are different in kind from those that were provided on January 1, 2000. For the purposes of this subsection, "administrative support services" includes all services relating to business office, finance and procurement, information management and technology, fleet, human resources, supply, telecommunications, facilities, security and clerical and administrative assistance personnel.

**41-1826. Arizona law enforcement training academy; former property; title transfer**

A. Notwithstanding any law to the contrary and for the benefit of the board, the department of public safety shall transfer to the state department of corrections the title to the property that was formerly known as the Arizona law enforcement training academy and that is operated as the correctional officer training academy in Tucson.

B. If at any time after title is transferred the state department of corrections leases or sells the property, the proceeds from the lease or sale shall be deposited, pursuant to sections 35-146 and 35-147, as follows:

1. 53.66 per cent of the proceeds or 53.66 per cent of the fair market value, whichever is greater, in the peace officers' training fund established by section 41-1825.

2. 46.34 per cent of the proceeds or 46.34 per cent of the fair market value, whichever is greater, in the state general fund.

**41-1827. Application for grants**

Any state agency, county, city or town which desires to receive a grant pursuant to section 41-1825 shall make application to the board for such aid. The application shall contain such information as the board may request.

**41-1828. Allocation of monies**

A. On the recommendation of the board, the executive director shall allocate and the state treasurer shall pay from the peace officers' training fund to each county, city or town of this state that has applied and qualified for a grant pursuant to this chapter a sum that will reimburse the political subdivision in an amount not to exceed one-half of the salary paid to each peace officer while participating in training. The cost of the training and living and travel expenses up to the maximum as prescribed by title 38, chapter 4, article 2 that are incurred by state, county, city or town officers while participating in training may be paid to the appropriate state agency or political subdivision.

B. If the monies in the peace officers' training fund budgeted by the board for such salary reimbursement are insufficient to allocate such amount to each participating county, city or town, the amount that is allocated to each shall be reduced proportionately. The board may refuse to allocate monies to any state agency, county, city or town that has not, throughout the period covered by the allocation, adhered to the recruitment and training standards established by the board as applicable to personnel recruited or trained by the state agency, county, city or town during the allocation period.

**41-1828.01. Required law enforcement agency reporting**

A. A law enforcement agency may report to the board any peace officer misconduct in violation of the rules for retention established pursuant to section 41-1822, subsection A, paragraph 3 at any time and shall report this misconduct on the peace officer's termination, resignation or separation from the agency.

B. On request of a law enforcement agency conducting a background investigation of an applicant for the position of a peace officer, another law enforcement agency employing, previously employing or having conducted a complete or partial background investigation on the applicant shall advise the requesting agency of any known misconduct in violation of the rules for retention established pursuant to section 41-1822, subsection A, paragraph 3.

C. Civil liability may not be imposed on either a law enforcement agency or the board for providing information specified in subsections A and B of this section if there exists a good faith belief that the information is accurate.

**DEPARTMENT OF PUBLIC SAFETY**

Title 13, Chapter 15, Article 1

**New Chapter:** Chapter 15

**New Article:** Article 1

**New Section:** R13-15-101, R13-15-102, R13-15-103, R13-15-104, R13-15-105, R13-15-106,  
R13-15-107, R13-15-108



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 14, 2022

**SUBJECT: DEPARTMENT OF PUBLIC SAFETY**  
Title 13, Chapter 15, Article 1

**New Chapter:** Chapter 15

**New Article:** Article 1

**New Section:** R13-15-101, R13-15-102, R13-15-103, R13-15-104,  
R13-15-105, R13-15-106, R13-15-107, R13-15-108

---

### **Summary:**

This regular rulemaking from the Department of Public Safety (Department) seeks to add a new Chapter and Article containing eight (8) rules at Title 13, Chapter 15, Article 1 related to Rapid DNA devices, procedures and administration. Specifically, the Department indicates, HB 2893, approved by the Governor on June 30, 2021, created A.R.S. § 41-1772, requiring rules to be adopted for Rapid DNA devices, procedures and administration.

With the implementation of this new chapter, the Department indicates it would certify Rapid DNA instruments for use in a law enforcement capacity for developing investigative leads. Additionally, the Department indicates the new chapter will create the needed expectations and limits for administration of a Rapid DNA law enforcement program.

The Department believes that not adopting rules for the use of Rapid DNA instrumentation in law enforcement programs could result in some law enforcement agencies utilizing the technology in a manner that is not consistent with forensic laboratory and/or Federal Bureau of Investigation standards, which could ultimately negatively impact the ability of the forensic laboratory associated with the agency in question to provide forensic support through either lab work or court testimony.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

The Department cites both general and specific statutory authority for these rules.

2. **Do the rules establish a new fee or contain a fee increase?**

This rulemaking does not establish a new fee or contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department indicates it relied on the following two manufacturer documents to validate the equipment:

- ThermoFisher Scientific, Applied Biosystems, RapidHit™ ID System v1.3.1, Publication number MAN0018938, Revision A.0, January 5, 2021.
- ThermoFisher Scientific, Applied Biosystems, User Bulletin, RapidINTEL™ Sample Cartridge for blood and saliva samples, RapidHIT™ ID System v1.1.3, Publication number MAN0018979, Revision A.0.

4. **Summary of the agency's economic impact analysis:**

The Department expects minimal economic impact to law enforcement agencies unless the legislature discontinues funding for the program or if a specific law enforcement agency decides to purchase their own instrumentation and/or implement their own standalone Rapid DNA program. The Department currently maintains this program with a regularly allocated budget and the FY2022 allocation from the legislature for expansion of the program across the state. The FY2022 budget included \$600,000 for the Department to purchase, deploy and certify county sheriff employees. A continued allocation in funding is being requested by the Department for FY2023, along with a request for additional FTEs to support the expanded program. The Department does not expect other agencies to hire FTEs to administer this rulemaking. Small businesses will be unaffected. Agencies purchasing their own instrumentation and/or creating their own standalone program would bear all expenses for instrumentation and supplies as well as the expense of any additional FTEs allocated to support the program. The public will benefit through improved speed in analysis of DNA samples to develop investigative leads early in the investigation.

**5. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department is unable to identify any other less costly or less intrusive methods to achieve the purpose of the proposed rulemaking at this time. The only other option is not pursuing the use of Rapid DNA technology on a broader scale and thereby limiting the potential impact on improving investigation of violent and property crime in the State of Arizona. The primary method of waiting on DNA results from crime labs in investigations works but has limitations in terms of turnaround time and capacity. There is another device available on the market; however, a publicly available developmental validation of the device was not available from the manufacturer during this rulemaking process for the Department to conduct a type acceptance. Section 103(C) does allow for laboratories to submit to the Department a validation assessment for adoption consideration when validation information is available and when new devices are created to possibly expand the approved list.

**6. What are the economic impacts on stakeholders?**

The Department does not require new full-time employees to implement the rules nor will any law enforcement agency incur any new costs directly related to the rules. The Department would become the approving body for Rapid DNA instruments and training programs, so the Department would only incur the personnel costs for the time needed to conduct reviews and approvals. The Department already performs the same function for breath-alcohol instruments (13 A.A.C. 10) and ignition interlock devices, so no additional FTE positions would be needed upon implementation of these rules.

The Department believes the rulemaking will result in no additional cost to law enforcement agencies, unless an agency decides to purchase their own Rapid DNA instrument with agency funds rather than rely on legislatively-funded instrumentation through the Department's Rapid DNA Law Enforcement program.

The Department believes the rulemaking will result in minimal cost savings to law enforcement agencies overall as some cases will be able to be solved more quickly using Rapid technology, thereby saving associated personnel costs involved with those investigations. Similarly, the rulemaking may result in minimal cost savings for crime labs associated with investigations impacted by Rapid DNA as the focus provided to the investigation through Rapid DNA may result in less or more focused work to be done by the lab.

The Department does not anticipate businesses will need to hire new employees to comply with these rules. The ability of manufacturers to produce and distribute the devices is unaffected by the rulemaking. Manufacturers will benefit from sales, maintenance and end-of-life replacement of the devices. Outside of the legislative funds for FY2022 which will be used to purchase six instruments and associated supplies, the Department is not able to predict how many instruments or supplies manufacturers will sell to agencies in Arizona.

Private persons and consumers, as taxpayers, are directly affected through appropriate and efficient use of public monies to purchase modern scientific test equipment to improve the ability of law enforcement to develop investigative leads. This, in turn, reduces public safety costs, health care system costs, and impact on business and family economic status.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

The Department indicates there were no changes between the Notice of Proposed Rulemaking and the final rules now before the Council.

8. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Department indicates it received no oral or written comments regarding this rulemaking. The Department indicates it held an oral public comment meeting on February 9, 2022. The Department states no members of the public attended the meeting.

9. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Pursuant to A.R.S. § 41-1037(A), if an agency proposes a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization, the agency shall use a general permit, as defined by A.R.S. § 41-1001(11), if the facilities, activities or practices in the class are substantially similar in nature, unless certain exceptions are met.

The Department indicates the rules require a permit. Specifically, evidentiary Rapid DNA devices are scientific devices that must meet standards recognized by the scientific community for court proceedings. The Department states the operators and maintainers of these devices are required to testify in a court of law on their training, skills, techniques and procedures to operate or maintain these devices. The Department states, given the legal aspect that has an impact on the State's or defendant's case, a general permit cannot be issued.

The certifications issued by the Department fall within the exception of A.R.S. § 41-1037(A)(3) in that "[t]he issuance of a general permit is not technically feasible or would not meet the applicable statutory requirements." Therefore, the Department is in compliance with A.R.S. § 41-1037.

10. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. The Department indicates there is no corresponding federal law.

## **11. Conclusion**

The Department seeks to add a new Chapter and Article containing eight (8) rules at Title 13, Chapter 15, Article 1 related to Rapid DNA devices, procedures and administration. Specifically, the Department indicates, HB 2893, approved by the Governor on June 30, 2021, created A.R.S. § 41-1772, requiring rules to be adopted for Rapid DNA devices, procedures and administration.

The Department is seeking the standard 60-day delayed effective date pursuant to A.R.S. § 41-1032(A). Council staff recommends approval of this rulemaking.



# ARIZONA DEPARTMENT OF PUBLIC SAFETY

2102 WEST ENCANTO BLVD. P.O. BOX 6638 PHOENIX, ARIZONA 85005-6638 (602) 223-2000

*"Courteous Vigilance"*

DOUGLAS A. DUCEY      HESTON SILBERT  
Governor                      Director

February 9, 2022

Ms. Nicole Sornsin, Chair  
The Governor's Regulatory Review Council  
100 N 15<sup>th</sup> Avenue, Suite 402  
Phoenix, AZ 85007

Dear Ms. Sornsin,

The Department of Public Safety submits a *Notice of Final Rulemaking* for Arizona Administrative Code Title 13, *Public Safety*, Chapter 15, *Rapid DNA*, Sections 101 through 108 for review and approval by the Council.

The following information is provided pursuant to R1-6-201:

1. Close of Record Date:

Pursuant to the *Notice of Proposed Rulemaking*, the rulemaking record was closed on February 10, 2022 following a period for public comment and an oral proceeding. The oral proceeding was held on February 9, 2022 without attendees from the public. No oral or written comments were received.

The final notice was transmitted to the Arizona Rules Oversight Committee on February 9, 2022.

2. Relation to Five-Year Review Report:

This is a new chapter, article and sections; therefore, a previous five-year review report does not exist.

3. Establishment of new fees:

This rulemaking does not establish new fees.

4. Establishment of fee increase:

This rulemaking does not establish a fee increase.

5. Request for immediate effective date under A.R.S. § 41-1032:

The Department is not requesting an immediate effective date.

6. Evaluations of studies related to the rulemaking:  
No external studies related to the rulemaking were evaluated.
7. Necessity of Full-time Employees:  
The rulemaking does not require an increase in full-time employees to implement the rules.
8. List of Documents:
  - a. *Notice of Final Expedited Rulemaking.*
  - b. Department's rulemaking waiver request letter.
  - c. Governor's Office rulemaking waiver approvals.
  - d. Copy of notification to AROC.
  - e. Incorporated by reference document FBI QAS 7-1-2020.
  - f. *Economic and Small Business Consumer Impact Statement.*
  - g. Device validation documents:
    - Device Validation MAN0018938 RapidHit ID System v1.3.1.UG
    - Device Validation MAN0018979 RapidHit RHIT v1.1.3 Validation UB
9. Additional Information:  
The Secretary of State approved the creation of Chapter 15 on November 5, 2021.

Sincerely,



Colonel Heston Silbert  
Director

Enc. 10

**NOTICE OF FINAL RULEMAKING**  
**TITLE 13. PUBLIC SAFETY**  
**CHAPTER 15. DEPARTMENT OF PUBLIC SAFETY – RAPID DNA**

**PREAMBLE**

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| Chapter 15  | New Chapter                     |
| Article 1   | New Article                     |
| R13-15-101  | New Section                     |
| R13-15-102  | New Section                     |
| R13-15-103  | New Section                     |
| R13-15-104  | New Section                     |
| R13-15-105  | New Section                     |
| R13-15-106  | New Section                     |
| R13-15-107  | New Section                     |
| R13-15-108  | New Section                     |
- 2. Citations to the agency’s statutory authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statute: A.R.S. § 17-1713(A)(4)
- Implementing statute: A.R.S. § 41-1772(A) Prescribe procedures for administering Rapid DNA testing of crime scene DNA samples including procedures for approving Rapid DNA testing devices and ensuring the accuracy of results obtained from Rapid DNA testing devices; as well as qualifications for persons who conduct Rapid DNA testing and persons who instruct others on administering Rapid DNA testing.
- 3. The effective date of the rules:**
- The rules are effective 60 days upon filing with the Secretary of State.
- a. If the agency selected a date earlier than the 60 days 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 earlier date was not selected.

- b. If the agency selected a date later than the 60 days 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 earlier effective date as provided in A.R.S. § 41-1032(A)(B):**

A later date was not selected.

- 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 rule:**

Notice of Rulemaking Docket Opening: 28 A.A.R. 124, January 7, 2022

Notice of Proposed Rulemaking: 28 A.A.R. 10, January 7, 2022

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

Name: Scott Rex, Crime Laboratory Manager, Rapid DNA

Address: Arizona Department of Public Safety

POB 6638, Mail Drop 1150

Phoenix, AZ 85005-6638

Telephone:(602) 223-2339

E-mail: srex@azdps.gov

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

The fifty-fifth Legislature First Regular Session 2021, Chapter 403, House Bill 2893 was approved by the Governor on June 30, 2021 and filed with the Secretary of State on June 30, 2021. The legislation created A.R.S. § 41-1772 requiring rules to be adopted for Rapid DNA devices, procedures and administration.

With the implementation of this new chapter, the Department would certify Rapid DNA instruments for use in a law enforcement capacity for developing investigative leads. Additionally, the chapter will create the needed expectations and limits for administration of a Rapid DNA law enforcement program.

The Department believes that not adopting rules for the use of Rapid DNA instrumentation in law enforcement programs could result in some law enforcement agencies utilizing the

technology in a manner that is not consistent with forensic laboratory and/or Federal Bureau of Investigation standards, which could ultimately negatively impact the ability of the forensic laboratory associated with the agency in question to provide forensic support through either lab work or court testimony.

The Department was granted exceptions to the rulemaking moratorium contained in Executive Order 2021-02 in an e-mail from Megan Fitzgerald, Governor's public policy advisor to the Department, dated December 13, 2021.

**7. A reference to any study relevant to the rule that the agency reviewed and proposes to either rely on or 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 Department has relied on the following two manufacturer documents to validate the equipment:

- ThermoFisher Scientific, Applied Biosystems, RapidHit™ ID System v1.3.1, Publication number MAN0018938, Revision A.0, January 5, 2021.
- ThermoFisher Scientific, Applied Biosystems, User Bulletin, RapidINTEL™ Sample Cartridge for blood and saliva samples, RapidHIT™ ID System v1.1.3, Publication number MAN0018979, Revision A.0.

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

The rulemaking does not diminish a previous grant of authority.

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

The Department expects minimal economic impact to law enforcement agencies unless the legislature discontinues funding for the program or if a specific law enforcement agency decides to purchase their own instrumentation and/or implement their own standalone Rapid DNA program. The Department currently maintains this program with regularly allocated budget and the FY2022 allocation from the legislature for expansion of the program across the state. The FY2022 budget included \$600,000 for the Department to purchase, deploy and certify county sheriff employees. A continued allocation in funding is being requested by the

Department for FY2023, along with a request for additional FTEs to support an expansion of the program. The Department does not expect other agencies to hire FTEs to administer this rulemaking and current program. Small businesses will be unaffected. Agencies purchasing their own instrumentation and/or creating their own standalone program would bear all expenses for instrumentation and supplies as well as the expense of any additional FTEs allocated to support the program. The public will benefit through improved speed in analysis of DNA samples to develop investigative leads early in the investigation.

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

There are no changes from the proposed rulemaking to the final rulemaking. A supplemental rulemaking was not conducted.

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

The Department conducted an oral public comment meeting on February 9, 2022. No members of the public attended the meeting. The Department did not receive any written comments prior to the close of record.

**12. All agency's 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 reason why a general permit is not used:**

The rules require a permit. Evidentiary Rapid DNA devices are scientific devices that must meet standards recognized by the scientific community for court proceedings. The operators and maintainers of these devices are required to testify in a court of law on their training, skills, techniques and procedures to operate or maintain these devices. Given the legal aspect that has an impact on the State's or defendant's case, a general permit cannot be issued.

**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 corresponding federal law.

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

The Department has not received an analysis.

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

Section 101, subsection #22: Federal Bureau of Investigation, Quality Assurance Standards for Forensic DNA Testing Laboratories dated July 1, 2020.

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-4-409(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, amended, or repealed as an emergency rule.

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

## TITLE 13. PUBLIC SAFETY

### CHAPTER 15. DEPARTMENT OF PUBLIC SAFETY – RAPID DNA

#### ARTICLE 1. LAW ENFORCEMENT RAPID DNA TESTING

##### Section

R13-15-101, Definitions

R13-15-102, Exemptions

R13-15-103, Instruments; Approvals, Standards, Authorizations

R13-15-104, Operator Certification

R13-15-105, Testing Requirements and Procedures

R13-15-106, Testing Site Minimum Facilities Requirements

R13-15-107, Partner Agency Sites

R13-15-108, Audits

#### **R13-15-101. Definitions**

In this article, unless the context otherwise requires:

1. “Accredited laboratory” means a laboratory that currently meets ISO 17025 accreditation standards and holds accreditation through a nationally or internationally accrediting organization.
2. “Allele” means one of two or more versions of a gene.
3. “Chromosome” means the structure found in the nucleus of a cell that carries genetic information.
4. “CJIS” means “Criminal Justice Information Services”, a division of the Federal Bureau of Investigations which sets law enforcement standards for data security and encryption.
5. “Crime scene sample” means a sample collected from a crime scene believed to contain DNA of value to advance the investigation.
6. “Database” means a repository for convicted offender and arrestee samples to be used in a search against an unknown DNA profile in accordance with A.R.S. § 13-1610.
7. “Department” means the Arizona Department of Public Safety.
8. “Developmental validation” means a method, as outlined in the Quality Assurance Standards, of determining that a Rapid DNA instrument meets generally accepted scientific standards

for Rapid DNA analysis. This validation is performed and/or coordinated by the manufacturer of the instrument and must be made publicly available.

9. “Director” means the Director of the Arizona Department of Public Safety.
10. “DNA” means deoxyribonucleic acid, which is the hereditary material in humans and other organisms.
11. “DNA profile” means a set of numbers from a series of genetic markers obtained from an individual’s DNA.
12. “Gene” means a unit of heredity which is transferred from a parent to an offspring that determines some characteristic of the offspring.
13. “Heredity” is the passing on of genetic characteristics from one generation to another.
14. “Internal validation” means a method performed by an accredited laboratory, as outlined in the Quality Assurance Standards, of determining that a Rapid DNA instrument meets generally accepted scientific standards for Rapid DNA analysis as used in the Rapid DNA testing program for the agency.
15. “Known reference sample” means a sample of DNA taken directly from an individual.
16. “Ladder” means a representation of the most common alleles present within a locus. The alleles present provide a reference to size the alleles present in the sample being analyzed.
17. “Locus” means the position of a gene on a chromosome.
18. “Negative control” means a quality control measure which is a sample used on the Rapid DNA instrument to detect DNA contamination in the reagents and consumables.
19. “Nucleus” means the center structure of a cell that contains genetic information.
20. “Performance check” means a series of analyses run on a Rapid DNA instrument at a Rapid DNA testing site to determine that the instrument can be put into service for Rapid DNA testing of crime scene and known reference samples.
21. “Positive control” means a known DNA sample processed on the Rapid DNA instrument that provides the expected DNA profile for that sample.
22. “Quality Assurance Standards (QAS)” means quality assurance requirements that are incorporated by reference by the Federal Bureau of Investigations, Quality Assurance Standards for Forensic DNA Testing Laboratories dated July 1, 2020.
23. “Rapid DNA” means an automated process of developing a DNA profile from a crime scene samples or known reference samples within a compressed period of time, typically under two

hours.

24. “Rapid DNA Consultant” means an individual who is a forensic scientist with training and experience in DNA analysis and interpretation; who has successfully completed an agency’s Rapid DNA Operator training program; who can perform interpretations on crime scene samples or known reference samples when requested by a Rapid DNA Operator; and who may teach training classes for new Rapid DNA Operators.
25. “Rapid DNA Coordinator” means an employee of the Arizona Department of Public Safety who meets the requirements of a Rapid DNA Consultant and who oversees the operations of the Department’s Law Enforcement Rapid DNA Program.
26. “Rapid DNA instrument” means a scientific instrument used to conduct Rapid DNA analysis.
27. “Rapid DNA Operator” means an individual who has successfully completed an agency’s Rapid DNA Operator training program and can operate the Rapid DNA instrument specific to their training.
28. “Rapid DNA partner agency site” means a Rapid DNA site that has met all of the requirements for a Rapid DNA testing site and that, additionally, has partnered with the Department to access their Rapid DNA database and receive support from the Rapid DNA Coordinator.
29. “Rapid DNA testing site” means a location at a law enforcement agency in the State of Arizona that meets the specific requirements to support and maintain a Rapid DNA law enforcement program and has been approved to do so by the Department.
30. “Raw data” is data from a Rapid DNA instrument prior to any adjustments that might be made by a software program utilized by the instrument.

### **R13-15-102. Exemptions**

Rapid DNA applications that are not being performed as part of law enforcement program to develop investigative leads from crime scenes and known reference sample and testing sites that are not associated with an accredited laboratory through a legally binding agreement and do not use personnel for testing associated with a law enforcement agency are exempt from this chapter. These exempt applications include the following:

1. Unidentified human remains testing by medical examiner/coroner offices,
2. Victim identification in mass disaster scenarios,

3. Missing persons cases not associated with a law enforcement crime scene investigation.
4. Applications within accredited laboratories; or
5. Rapid DNA booking stations.

**R13-15-103. Instruments; Approvals, Standards, Authorizations**

- A.** The Director may approve instruments used to perform Rapid DNA analysis as part of a law enforcement program after receiving a report from an accredited laboratory that successfully tested a typical model of the instrument for compliance with the standards in subsection B.
- B.** The instrument shall meet the following standards of performance:
  1. The instrument shall have a publicly-available developmental validation completed by the manufacturer which follows the requirements of the QAS and includes, where applicable:
    - a. Characterization of the genetic marker.
    - b. Species specificity.
    - c. Sensitivity studies.
    - d. Stability studies.
    - e. Reproducibility.
    - f. Case-type sample.
    - g. Population studies.
    - h. Mixture studies.
    - i. Precision and accuracy studies; and
    - j. PCR-based studies.
  2. The instrument shall have an internal validation completed by the submitting accredited laboratory which follows the requirements of the QAS and includes, where applicable:
    - a. Known and mock evidence samples.
    - b. Precision and accuracy studies.
    - c. Sensitivity and stochastic studies.
    - d. Mixture studies; and
    - e. Contamination assessments.
  3. The instrument shall allow the accredited laboratory performing the internal validation the ability to access, view and interpret raw data from the instrument in order to ensure

the integrity of the analysis.

**C.** The accredited laboratory shall provide the following to the Department for approval of the Rapid DNA instrument:

1. A copy of the developmental validation,
2. A summary of the internal validation,
3. All data from the internal validation; and
4. Any additional supporting documentation or calculations needed to support the internal validation.

**D.** The Department, upon specific findings that a device is unreliable, inaccurate, or otherwise unable to meet the requirements of a validation, shall publish a disapproval of use of the instrument.

**E.** The following instrument is approved by the Director:

<b>Instrument Device/Model</b>	<b>Manufacturer</b>
RapidHIT ID	Thermofisher

**F.** Only Rapid DNA Operators are authorized to operate approved Rapid DNA instruments for use at law enforcement agencies.

**G.** The Director may publish a temporary approval of a Rapid DNA instrument that has been successfully tested for compliance with the standards in subsection B for use prior to and pending the instrument being added to subsection E. The temporary approval shall expire three years after its effective date.

#### **R13-15-104. Operator Certification**

**A.** In order to be certified as a Rapid DNA Operator to operate a Rapid DNA instrument as part of a law enforcement program, an employee of a law enforcement agency shall successfully complete training that meets the following criteria:

1. A training program approved by the Director.
2. The training program shall include at a minimum the following:
  - a. Information on basic biology, specifically including what DNA is and its purpose,
  - b. Information on basic DNA analysis,
  - c. Identification of appropriate sample types for analysis on Rapid DNA

- instrumentation,
  - d. Proper collection and preservation of samples for analysis on Rapid DNA instrumentation,
  - e. Information on clean techniques to process samples and minimize contamination,
  - f. Information on DNA databases,
  - g. Evaluation and interpretation of DNA results,
  - h. Basic knowledge of the operation of a Rapid DNA instrument,
  - i. Information on court testimony regarding Rapid DNA analysis,
  - j. Taking a sample from collection to identification of an investigative lead using the Rapid DNA instrument and where applicable any associated database,
  - k. A written examination covering the objectives in subsections (a) through (i); and
  - l. A practical examination to demonstrate competence in subsection (j).
- 3. Certification as a Rapid DNA Operator is contingent upon successful completion of the approved training program as measured by the written and practical examinations associated with the program. The written examination shall be passed with a minimum score of 90% and the prospective operator shall demonstrate the ability to successfully operate the Rapid DNA instrument in a practical-use test.
- 4. Maintaining certification as a Rapid DNA Operator is contingent on completing one of the following on an annual basis:
  - a. Submission to the Department of evidence of successful operation of the Rapid DNA instrument during the annual period; or
  - b. Submission to the Department of evidence of successful completion of a proficiency test that demonstrated operation of the instrument and receiving the expected result as shown by the test record completed by the operator on the Rapid DNA instrument during the annual period.
- B.** The Department may suspend or revoke the certification of a Rapid DNA Operator for any of the following reasons:
  - 1. Any falsified test results or false statements to the Department, other law enforcement agency or criminal justice entity.
  - 2. Failure of an operator to maintain quality control over sample preparation, reagents, or instrumentation during analysis of samples.

3. Failure of the operator to provide evidence of successful operation of the instrument on an annual basis pursuant to subsection (A)(4).
  4. Failure to operate the Rapid DNA instrument according to approved procedures or methods.
  5. Undertaking actions that compromise the integrity of the results or of the Rapid DNA testing program.
- C. The provisions of A.R.S. Title 41, Chapter 6, Article 10 are applicable to denials, revocations, suspensions and administrative appeals.

### **R13-15-105. Testing Requirements and Procedures**

- A. Rapid DNA testing sites shall be associated with an accredited laboratory through a legally binding agreement and use personnel for testing associated with a law enforcement agency to develop investigative leads from a crime scene and known reference samples.
- B. Rapid DNA testing conducted at law enforcement sites shall follow the procedures or protocols outlined in the training program for that agency, site, and Rapid DNA instrument.
- C. Rapid DNA Operators shall follow on-screen prompts on the Rapid DNA instrument when performing Rapid DNA testing.
- D. The amount of sample used in Rapid DNA testing for a case shall not compromise the ability of the associated accredited laboratory to complete conventional DNA testing on that sample.
  1. If Rapid DNA testing would consume too much of the sample to allow conventional DNA testing within the associated accredited laboratory, Rapid DNA testing shall not be conducted on that sample.
  2. Consultation with the associated accredited laboratory may be necessary to determine whether the amount of sample is sufficient to complete both Rapid DNA and conventional DNA testing.
- E. Rapid DNA testing shall be conducted only on sample types approved for the specific Rapid DNA instrument being used as demonstrated by the internal validation for the instrument and as outlined in the training program for the instrument.
- F. Each instrument run shall be documented on a run log which shall include at a minimum the following:
  1. Instrument and site information,

2. Date and time of sample run,
3. Date and time of sample collection,
4. Lot numbers of reagents,
5. Case number,
6. Agency,
7. Operator,
8. Type of sample,
9. Type of case; and
10. Results of analysis.
  - a. If profile developed.
  - b. If investigative lead developed.

**G.** Run logs shall be maintained for a minimum of two years at each Rapid DNA testing site and be made immediately available for review by the Department when requested.

**H.** Supplemental reports documenting the Rapid DNA test shall be included with each case file.

### **R13-15-106. Testing Site Minimum Facilities Requirements**

**A.** All Rapid DNA testing sites shall have the following:

1. A minimum of six square feet of counter space to perform sample preparation and sample analysis,
2. A minimum of 100 square feet of space to house the Rapid DNA instrument, a computer with monitor, and a printer,
3. Appropriate temperature, lighting and humidity to maintain the integrity of samples, the Rapid DNA instrument, and reagents as specified by the manufacturer of the instrument and reagents,
4. Restrictions on personnel access to reduce potential contamination of samples,
5. Uninterrupted power supply or other backup power source to prevent damage to the instrument and to prevent failures of Rapid DNA tests due to power loss,
6. Floors and countertops able to withstand frequent decontamination with bleach solutions; and
7. A temperature-monitored refrigerator for storage of reagents, where applicable.

**B.** Testing sites cannot be used for any other purpose besides preparation of samples for Rapid

DNA analysis and running of samples on the instrument.

- C. Floors, countertops and equipment shall be decontaminated on a regular basis at minimum of every two weeks to maintain cleanliness and minimize any foreign DNA. A cleaning log should be maintained at each testing site and be made available for review by the Department when requested
- D. Equipment calibration and maintenance shall be tracked in a log that is maintained at each Rapid DNA testing site. At a minimum the log shall contain information on the date and nature of the calibration or maintenance and include any associated paperwork from the person performing the calibration or maintenance. This log shall be made available for review by the Department when requested.

#### **R13-15-107. Partner Agency Sites**

- A. A partner agency site shall meet all the standards in R13-15-105 and R13-15-106.
- B. Additional standards include the following:
  - 1. The partner agency site shall comply with any additional internal program requirements of the Department which includes a memorandum of understanding (MOU) between the agencies.
  - 2. Run logs shall be provided to the Department on a calendar quarterly basis.

#### **R13-15-108. Audits**

- A. The testing site shall be audited at least once in any six to 18 month period by the associated accredited laboratory. An audit shall ensure the testing site is in compliance with R13-15-103(D)(E)(F)(G), R13-15-104(A), R13-15-105 and R13-15-106.
- B. If the audit of the Rapid DNA testing site determines that the site is not in compliance with the standards in subsection A, the testing site shall be suspended and cease operations until the associated accredited laboratory and the Department determines the site is once again in compliance.
- C. Documentation of audits shall be maintained at both the testing site and at the associated accredited laboratory for a minimum of five years.

# **Economic, Small Business and Consumer Impact Statement**

**Title 13.           Public Safety**

**Chapter 15.       Department of Public Safety - Law Enforcement  
Rapid DNA Testing**

**November 8, 2021**

## PREAMBLE

### **1. An identification of the proposed rulemaking, including all of the following:**

#### **(a) The conduct and its frequency of occurrence that the rule is designed to change.**

With the implementation of this new chapter, the Department would certify Rapid DNA instruments for use in a law enforcement capacity for developing investigative leads. Additionally, the chapter will create the needed expectations and limits for administration of a Rapid DNA law enforcement program. The current model for this law enforcement program, using instruments at the Department's Central and Southern labs, impacts approximately 85 cases a year. The expectation of the Department is that the number of cases impacted will rise substantially as new Rapid DNA instruments are made accessible statewide.

#### **(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.**

The Department believes that not adopting rules for the use of Rapid DNA instrumentation in law enforcement programs could result in some law enforcement agencies utilizing the technology in a manner that is not consistent with forensic laboratory and/or Federal Bureau of Investigation standards, which could ultimately negatively impact the ability of the forensic laboratory associated with the agency in question to provide forensic support through either lab work or court testimony. While this has not yet occurred within the state of Arizona, other states have seen limited negative impacts from this type of use. Ultimately, these impacts could negatively affect the ability of these cases to proceed through adjudication.

#### **(c) The estimated change in frequency of the targeted conduct expected from the rule change.**

The Department expects an increase in frequency of use as additional instruments are placed in service in the field for use. Standardization of the way the instruments are approved, the parameters for their use, and the way users are trained, will ensure that this increase in frequency does not result in negative impacts to investigations such as use in cases where Rapid DNA is not warranted or a decrease in effective results due to analysis of inappropriate samples.

### **2. A brief summary of the information included in the economic, small business and consumer impact statement.**

The Department expects minimal economic impact to law enforcement agencies unless the legislature discontinues funding for the program or if a specific law enforcement agency decides to purchase their own instrumentation and/or implement their own standalone Rapid

DNA program. The Department currently maintains this program with regularly allocated budget and the FY2022 allocation from the legislature for expansion of the program across the state. The FY2022 budget included \$600,000 for the Department to purchase, deploy and certify county sheriff employees. A continued allocation in funding is being requested by the Department for FY2023, along with a request for additional FTEs to support the expanded program. The Department does not expect other agencies to hire FTEs to administer this rulemaking. Small businesses will be unaffected. Agencies purchasing their own instrumentation and/or creating their own standalone program would bear all expenses for instrumentation and supplies as well as the expense of any additional FTEs allocated to support the program. The public will benefit through improved speed in analysis of DNA samples to develop investigative leads early in the investigation.

**3. If the economic, small business and consumer impact summary accompanies a proposed rule or a proposed expedited rule, the name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.**

Name: Mr. Scott Rex, Crime Laboratory Manager  
Scientific Analysis Bureau, Central Regional Crime Laboratory

Address: Arizona Department of Public Safety  
PO Box 6638, Mail Drop 1150  
Phoenix, AZ 85005-6638

Telephone:(602) 223-2339

E-mail: srex@azdps.gov

## MAIN BODY

### **1. An identification of the proposed rulemaking.**

This rulemaking is related to funding allocated to the Department for FY2022 to expand the current Rapid DNA Law Enforcement Program to county agencies statewide. As a condition of this funding, the legislature has required promulgation of rules for Rapid DNA testing in a law enforcement capacity. These rules are intended to ensure standardization of the requirements for Rapid DNA instruments and training programs.

### **2. An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking.**

Arizona law enforcement agencies can continue to use the current method of either submitting directly to their associated crime laboratory for analysis or using the Department's current Rapid DNA Law Enforcement Program. Expansion of the program through the legislative funding will provide more opportunities for agencies to use the technology. Standardization of the use of Rapid DNA technology through the rulemaking will ensure all analyses completed statewide using Rapid DNA instrumentation are held to the same expectations and standards. This directly benefits the following persons:

- Law enforcement agencies, who will be able to identify investigative leads more quickly and focus investigations more effectively.
- The Department, who will have the benefit of more focused submissions to the Crime Laboratory based on the improved focus of investigations.
- The public, who will benefit from the increased speed on investigations and the ability of law enforcement to identify offenders more quickly.

### **3. A cost benefit analysis of the following:**

The Department believes the protection of the public from violent and property crimes and the improved time to generate investigative leads in cases using Rapid DNA technology exceeds any costs associated with purchasing Rapid DNA instrumentation and adhering to the certification standards.

- a. The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The probable costs to the implementing agency shall include the number of new full-time employees necessary to implement and enforce the proposed rule. The preparer of the economic, small business and consumer impact statement shall notify the joint legislative budget committee of the number of new full-time employees necessary to implement and enforce the rule before the rule is approved by the council.**

The Department does not require new full-time employees to implement the rules nor will any law enforcement agency incur any new costs directly related to the rules. While the Department is in the processing of expanding the current program, the costs

associated with the expansion are not due to the rules themselves and would be incurred regardless. The Department would become the approving body for Rapid DNA instruments and training programs, so the Department would only incur the personnel costs for the time needed to conduct reviews and approvals. The Department already performs the same function for breath-alcohol instruments (13 A.A.C. 10) and ignition interlock devices, so no additional FTE positions would be needed upon implementation of these rules.

**b. The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.**

The Department believes the rulemaking will result in no additional cost to law enforcement agencies, unless an agency decides to purchase their own Rapid DNA instrument with agency funds rather than rely on legislatively-funded instrumentation through the Department's Rapid DNA Law Enforcement program.

The Department believes the rulemaking will result in a minimal cost savings to law enforcement agencies overall as some cases will be able to be solved more quickly using Rapid technology, thereby saving associated personnel costs involved with those investigations. Similarly, the rulemaking may result in minimal cost savings for crime labs associated with investigations impacted by Rapid DNA as the focus provided to the investigation through Rapid DNA may result in less or more focused work to be done by the lab.

**c. The probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.**

The Department does not anticipate businesses will need to hire new employees to comply with these rules. The ability of manufacturers to produce and distribute the devices is unaffected by the rulemaking. Manufacturers will benefit from sales, maintenance and end-of-life replacement of the devices. Outside of the legislative funds for FY2022 which will be used to purchase six instruments and associated supplies, the Department is not able to predict how many instruments or supplies manufacturers will sell to agencies in Arizona.

**4. A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking.**

The Department believes the Rapid DNA testing rules may have various impacts.

General employment in the state may benefit from quicker development of investigative leads by using Rapid DNA due to improved State reputation for safety and the potential for offenders to be identified earlier before they have the opportunity to commit additional crimes. For individual cases where Rapid DNA technology is used, there may be a

substantial negative economic impact on families and employers due to penalties and incarceration of persons arrested as a result of these expedited investigations. Employers would take on costs associated with lower production, lost time from work and potentially hiring new people. Those arrested and their families may have reduced income from potential loss of employment, potential to seek government assistance funding, and potential loss of freedom due to incarceration.

**5. A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:**

**a. An identification of the small business subject to the proposed rulemaking.**

The Department is not able to identify a small business directly associated to this rulemaking. The Department does not believe this rulemaking will have an impact on small business other than the potential loss of employees identified and arrested due to investigative leads provided by the use of Rapid DNA instrumentation.

**b. The administrative and other costs required for compliance with the proposed rulemaking.**

The Department does not believe small businesses will be affected by this rulemaking and therefore will not incur the need to hire additional people nor incur additional outside expenses to comply with the rules.

**c. A description of the methods prescribed in section 41-1035 that the agency may use to reduce the impact on small businesses with reasons for the agency's decision to use or not to use each method.**

The Department believes there is no impact to small businesses and therefore it is not possible to evaluate alternate methods to lower the impact any further.

**d. The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

Private persons and consumers, as taxpayers, are directly affected through appropriate and efficient use of public monies to purchase modern scientific test equipment to improve the ability of law enforcement to develop investigative leads. This, in turn, reduces public safety costs, health care system costs, and impact to business and family economic status.

**6. A statement of the probable effect on state revenues.**

As previously stated, the Department believes the protection of the public from violent and property crimes and the improved time to generate investigative leads in cases using Rapid DNA technology exceeds any costs associated with purchasing Rapid DNA instrumentation. The State and the Department will see a marginal impact on revenues through the purchase

of Rapid DNA instrumentation and supplies on an annual basis. However, this impact will be at least partially offset by the decreased time needed for investigation in some Rapid DNA cases, which may result in lower personnel costs in those cases as well as lower costs for crime labs when processing those cases.

**7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.**

The Department is unable to identify any other less costly or less intrusive methods to achieve the purpose of the proposed rulemaking at this time. The only other option is not pursuing the use of Rapid DNA technology on a broader scale and thereby limiting the potential impact on improving investigation of violent and property crime in the State of Arizona. The primary method of waiting on DNA results from crime labs in investigations works but has limitations in terms of turnaround time and capacity. There is another device available on the market; however, a publicly available developmental validation of the device was not available from the manufacturer during this rulemaking process for the Department to conduct a type acceptance. Section 103(C) does allow for laboratories to submit to the Department a validation assessment for adoption consideration when validation information is available and when new devices are created to possibly expand the approved list.

**8. A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

The Department has relied on a published developmental validation of a Rapid DNA instrument by a manufacturer as well as an extensive in-house validation testing for the specific Rapid DNA instrument currently in use in the state of Arizona. This validation testing is available upon request and is a part of the rulemaking record. Additionally, the Department has representation on national committees including the Rapid DNA Crime Scene Task Force, the Organization of Scientific Area Committee for Rapid DNA, the Criminal Justice Information Services Advisory Policy Board for Rapid DNA and the Scientific Working Group on DNA Analysis Methods. These committees deal with regulation and use of Rapid DNA technology, and the studies and work being done through these committees are being used to establish national standards for use of Rapid DNA instrumentation in law enforcement settings.

# RapidHIT™ ID System v1.3.1

## USER GUIDE

for use with:

RapidLINK™ Software v1.1.5

Publication Number MAN0018938

Revision A.0



For Forensic, Human Identification, or Paternity/Kinship Use Only. Not for use in diagnostic or therapeutic applications.



Life Technologies Corporation | 6055 Sunol Blvd | Pleasanton, CA 94566 USA

For descriptions of symbols on product labels or product documents, go to [thermofisher.com/symbols-definition](https://www.thermofisher.com/symbols-definition).

The information in this guide is subject to change without notice.

**DISCLAIMER:** TO THE EXTENT ALLOWED BY LAW, THERMO FISHER SCIENTIFIC INC. AND/OR ITS AFFILIATE(S) WILL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, MULTIPLE, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING FROM THIS DOCUMENT, INCLUDING YOUR USE OF IT.

**Revision history:** Pub. No. MAN0018938

Revision	Date	Description
A.0	05 January 2021	New document for RapidHIT™ ID System v1.3.1.

**Important Licensing Information:** These products may be covered by one or more Limited Use Label Licenses. By use of these products, you accept the terms and conditions of all applicable Limited Use Label Licenses.

**TRADEMARKS:** All trademarks are the property of Thermo Fisher Scientific and its subsidiaries unless otherwise specified.

©2021 Thermo Fisher Scientific Inc. All rights reserved.

# Contents

- **CHAPTER 1 Product information** ..... 7
  - Product description ..... 7
  - Sample cartridge types ..... 8
  - Parts of the instrument ..... 9
  - Required materials not supplied ..... 10
  - Network and password security requirements ..... 11
    - Network configuration and security ..... 11
    - Password security ..... 11
  - Workflow ..... 12
  
- **CHAPTER 2 Collect and prepare the sample** ..... 14
  - Sample collection: GlobalFiler™ Express and NGM SElect™ Express sample cartridges . 14
  - Sample collection: RapidINTEL™ sample cartridges ..... 14
  
- **CHAPTER 3 Run the instrument to generate a DNA profile** ..... 15
  - Power on the internal computer ..... 16
  - Sign in to the instrument ..... 17
  - Parts of the sample identification screen ..... 19
  - Enter the sample identification number ..... 19
    - Scan a barcode with the camera ..... 19
    - Enter a sample ID or barcode ..... 20
  - Insert the sample cartridge into the instrument (automatically starts the run) ..... 21
  - Run times for different sample cartridges ..... 22
  - Remove the sample cartridge from the instrument ..... 23
  - Check the run result ..... 24
  - View and export the run results ..... 25
  - Sign out ..... 26

- **CHAPTER 4** Manage the instrument and software ..... 28
  - View and export the run results for all runs (administrator or supervisor only) ..... 28
  - Configure instrument settings (administrator or supervisor only) ..... 29
  - Manage users (administrator only) ..... 31
    - User roles and permissions ..... 31
    - Add a user ..... 31
    - Remove authorization for an instrument ..... 34
  
- **CHAPTER 5** Maintain the instrument ..... 35
  - Routine maintenance ..... 35
  - View primary cartridge information ..... 36
  - Replace the primary cartridge (administrator or supervisor only) ..... 37
    - Parts of the primary cartridge ..... 37
    - Prepare a new primary cartridge ..... 38
    - Insert the prepared primary cartridge (administrator or supervisor only) ..... 42
  - Run a control cartridge ..... 44
  - Back up and restore data (administrator only) ..... 45
  - Recover the instrument (administrator or supervisor only) ..... 45
  - Prepare the instrument for shipping ..... 45
  
- **APPENDIX A** Troubleshooting ..... 46
  - Check the RapidLINK™ Software connection ..... 46
  - Troubleshooting: Symptoms, causes, and actions ..... 46
  
- **APPENDIX B** Instrument specifications ..... 49
  - Dimensions, clearance, and weight ..... 49
  - Instrument layout and connections ..... 50
  - Environmental requirements ..... 52
  - Electrical requirements ..... 53
  
- **APPENDIX C** Analysis settings ..... 54
  - Threshold settings ..... 54
  - Display analysis settings in the GeneMarker™ HID STR Human Identity Software ..... 56
  - Analysis settings: GlobalFiler™ Express sample cartridges ..... 57
  - Analysis settings: RapidINTEL™ sample cartridges ..... 58
  - Analysis settings: NGM SElect™ Express sample cartridges ..... 60

■	<b>APPENDIX D</b>	<b>Validation of the Systematic Allelic Ladder Library (ACE NGM sample cartridges only)</b>	<b>62</b>
		Background	62
		About the Systematic Allelic Ladder Library	63
		Study overview	65
		Concordance	65
		Accuracy	67
		Absolute size difference	68
		Conclusion	68
■	<b>APPENDIX E</b>	<b>Software verification RapidHIT™ ID System v1.3.1</b>	<b>69</b>
		Objective of the software verification	69
		Studies, standards, and samples	70
		Functionality testing results	71
		Regression testing results	75
		Accuracy testing results	75
		Reliability testing results	77
		Conclusion	78
■	<b>APPENDIX F</b>	<b>Safety</b>	<b>79</b>
		Symbols on this instrument	79
		Standard safety symbols	79
		Location of safety labels	80
		Control and connection symbols	80
		Conformity symbols	81
		Safety information for instruments not manufactured by Thermo Fisher Scientific	82
		Instrument safety	82
		General	82
		Physical injury	82
		Electrical safety	82
		Cleaning and decontamination	83
		Instrument component and accessory disposal	83
		Laser safety	83
		Safety and electromagnetic compatibility (EMC) standards	84
		Safety standards	84
		EMC standards	84
		Environmental design standards	85
		Radio compliance standards	85
		Chemical safety	87
		Biological hazard safety	88

Documentation and support .....	89
Related documentation .....	89
Customer and technical support .....	89
Limited product warranty .....	90
References	
Index .....	92

■ Product description .....	7
■ Sample cartridge types .....	8
■ Parts of the instrument .....	9
■ Required materials not supplied .....	10
■ Network and password security requirements .....	11
■ Workflow .....	12

---

**IMPORTANT!** Before using this product, read and understand the information in the “Safety” appendix in this document.

---

## Product description

The Applied Biosystems™ RapidHIT™ ID System v1.3.1 system uses the following components.

- **RapidHIT™ ID sample cartridges**—Self-contained sample cartridges contain reagents and size standard for Applied Biosystems™ STR (short tandem repeat) chemistry.

You add a sample to the cartridge, then insert the sample cartridge into the instrument.

- **RapidHIT™ ID System v1.3.1**—The instrument provides an intuitive user interface that guides you through routine use.

The instrument generates a DNA profile in 90–110 minutes.

- **RapidLINK™ Software v1.1.5**—When an instrument run is complete, the DNA profile is sent to the RapidLINK™ Software. You can review DNA profiles, view electropherograms, and update DNA profiles. With the activation of RapidLINK™ applications (apps), you can perform sample matching, kinship analysis, and familial searching. You can also compare profiles that are generated to the optional Staff Elimination Database.

Additionally, you can monitor all instruments that contribute DNA profiles to the RapidLINK™ Software.

For information on the RapidLINK™ Software v1.1.5, see the *RapidLINK™ Software v1.1.5 User Guide* (Pub. No. MAN0018939).



## Sample cartridge types

Abbreviation on labels / in software	Sample type	STR chemistry	Features	For more information see
<b>RapidHIT™ ID ACE GlobalFiler™ Express Sample Cartridge</b>				
ACE GFE / GFE	Single-source, buccal swab	GlobalFiler™ Express	Optimized data analysis thresholds (based on v 1.3)	Appendix E, “Software verification RapidHIT™ ID System v1.3.1”
<b>RapidINTEL™ Sample Cartridge</b>				
AB RI	Casework, single-source, blood and saliva samples	GlobalFiler™ Express	Increased sensitivity for investigative leads samples	<i>RapidINTEL™ Sample Cartridge for Blood and Saliva Samples Validation User Bulletin</i> (Pub. No. MAN0018979)
<b>RapidHIT™ ID ACE NGM SElect™ Express Sample Cartridge</b>				
ACE NGM / NGM	Single-source, buccal swab	NGM SElect™ Express	Systematic allelic ladder library	<ul style="list-style-type: none"> <li>• Appendix D, “Validation of the Systematic Allelic Ladder Library (ACE NGM sample cartridges only)”</li> <li>• <i>RapidHIT™ ID ACE NGM SElect™ Express Sample Cartridge for RapidHIT™ ID System v1.2 Validation User Bulletin</i> (Pub. No. MAN0018973)</li> </ul>

## Parts of the instrument



- ① Camera
- ② Sample cartridge port
- ③ Touchscreen (display screen)
- ④ Fingerprint reader
- ⑤ Primary cartridge (contains gel cartridge)
- ⑥ Power button (controls the internal computer)
- ⑦ USB port
- ⑧ Rear panel with main power switch, USB, and computer connections

The instrument also includes an internal environmental sensor that monitors temperature and humidity.

Do not lean on any part of the instrument. This action could cause damage or breakage, especially to the display screen.

## Required materials not supplied

Unless otherwise indicated, all materials are available through [thermofisher.com](http://thermofisher.com). "MLS" indicates that the material is available from [fisherscientific.com](http://fisherscientific.com) or another major laboratory supplier.

**Table 1 RapidHIT™ ID Primary Cartridge GlobalFiler™ Express 100 Kit (Cat. No. A41841)<sup>[1]</sup>**

Contents	Amount	Storage
<b>Box 1</b>		
Primary cartridge—GlobalFiler™ Express 100	1 primary cartridge for 100 runs <sup>[2]</sup>	Room temperature (15–30°C)
Utility cartridge (for primary cartridge replacement)	2 utility cartridges	
<b>Box 2</b>		
Gel cartridge (for primary cartridge replacement)	1 gel cartridge	4–10°C
ACE GlobalFiler™ Express control cartridge (allelic ladder, for installation)	1 control cartridge	
RapidHIT™ ID ACE GlobalFiler™ Express positive control cartridge (for installation)	1 positive control cartridge	

<sup>[1]</sup> The primary, utility, gel, and allelic ladder cartridges are also used for the RapidINTEL™ Sample Cartridge Kit (Cat. No. A43942).

<sup>[2]</sup> Primary cartridges can be ordered separately (Cat. No. A41841, includes gel, utility, and ACE GFE Control Cartridge [allelic ladder] cartridges).

**Table 2 RapidHIT™ ID Primary Cartridge NGM SElect™ 100 Kit (Cat. No. A41847)**

Contents	Amount	Storage
<b>Box 1</b>		
Primary cartridge—NGM SElect™ Express 100	1 primary cartridge for 100 runs <sup>[1]</sup>	Room temperature (15–30°C)
Utility cartridge (for primary cartridge replacement)	2 utility cartridges	
<b>Box 2</b>		
Gel cartridge (for primary cartridge replacement)	1 gel cartridge	4–10°C
NGM control cartridge (allelic ladder, for installation)	1 control cartridge	
NGM positive control cartridge (for installation)	1 positive control cartridge	

<sup>[1]</sup> Primary cartridges can be ordered separately (Cat. No. A43409, includes gel, utility, and ACE NGM Control Cartridge [allelic ladder] cartridges).

**Table 3 Sample cartridges**

Component	Cat. No.
RapidHIT™ ID ACE GlobalFiler™ Express 50 Sample Kit 50 sample cartridges, 2 positive control cartridges, 2 negative control cartridges	A41831
RapidHIT™ ID ACE NGM SElect™ Express 50 Sample Kit 50 sample cartridges, 2 positive control cartridges, 2 negative control cartridges	A41838
RapidINTEL™ Sample Cartridge Kit 50 sample cartridges, 2 positive control cartridges, 2 negative control cartridges	A43942

**Table 4 Accessories**

Component	Cat. No.
(Optional) Barcode scanner compatible with one of the following formats: GS1-128, Industrial 2 of 5, Interleaved 2 of 5, Code 128, Code 39 <b>Note:</b> The instrument must be configured by a service representative to enable barcode scanning. If you want to add a barcode scanner to the instrument after initial installation, contact Thermo Fisher Scientific to request an update to your configuration.	MLS
Whatman™ OmniSwab	09-923-376 (WB100035)
Puritan 3" Sterile Standard Cotton Swab w/Semi-Flexible Polystyrene Handle	25-8032 PC

## Network and password security requirements

### Network configuration and security

The network configuration and security settings of your laboratory or facility (such as firewalls, anti-virus software, network passwords) are the sole responsibility of your facility administrator, IT, and security personnel. This product does not provide any network or security configuration files, utilities, or instructions.

If external or network drives are connected to the software, it is the responsibility of your IT personnel to ensure that such drives are configured and secured correctly to prevent data corruption or loss. It is the responsibility of your facility administrator, IT, and security personnel to prevent the use of any unsecured ports (such as USB, Ethernet) and ensure that the system security is maintained.

### Password security

Thermo Fisher Scientific strongly recommends that you maintain unique passwords for all accounts in use on this product. All passwords should be reset upon first sign in to the product. Change passwords according to your organization's password policy.

It is the sole responsibility of your IT personnel to develop and enforce secure use of passwords.

## Workflow

Obtain swab or substrate samples according to your standard operating procedure.



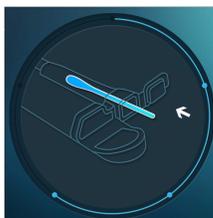
Sign in.



Scan the sample cartridge barcode or enter the sample identification number.



**IMPORTANT!** Do not include the following in sample IDs: "ladder", "posctrl", or "negctrl" (case does not matter). The software processes any sample IDs that contain these names as allelic ladders or controls.



Insert the swab or substrate sample into a sample cartridge.



Insert the sample cartridge into the instrument.  
The run starts automatically.





The countdown timer starts at 110 minutes.  
The typical run time is ~90 minutes.

**Note:** The timer stops when the run is complete. The timer does not decrease to 0 minutes. For more information, see “Run times for different sample cartridges” on page 22.



Remove the sample cartridge from the instrument, then view the result.



RapidLINK™

Review results and run applications in the RapidLINK™ Software.

# 2

## Collect and prepare the sample

- Sample collection: GlobalFiler™ Express and NGM SElect™ Express sample cartridges . . . . . 14
- Sample collection: RapidINTEL™ sample cartridges . . . . . 14

### Sample collection: GlobalFiler™ Express and NGM SElect™ Express sample cartridges

Sample cartridges were validated using the following swab types, but other swab types have been used successfully with both cartridges.

- **GlobalFiler™ Express**—Puritan 3" Sterile Standard Cotton Swab w/Semi-Flexible Polystyrene Handle (Puritan Cat. No. 25-8032 PC)
- **NGM SElect™ Express**—Whatman™ OmniSwab, (Fisher Scientific™ Cat. No. 09-923-376 [WB100035])

---

**IMPORTANT!** When you handle buccal swabs, follow your standard operating protocol for the use of safety glasses, lab coats, and chemical-resistant, disposable gloves (powder-free).

---

### Sample collection: RapidINTEL™ sample cartridges

Blood and saliva samples have been validated for use with RapidINTEL™ sample cartridges. Samples were processed for validation as described in *RapidINTEL™ Sample Cartridge for Blood and Saliva Samples Validation User Bulletin* (Pub. No. MAN0018979).

---

**IMPORTANT!** When you handle samples, follow your standard operating protocol for the use of safety glasses, lab coats, and chemical-resistant, disposable gloves (powder-free).

---



# Run the instrument to generate a DNA profile

- Power on the internal computer ..... 16
- Sign in to the instrument ..... 17
- Parts of the sample identification screen ..... 19
- Enter the sample identification number ..... 19
- Insert the sample cartridge into the instrument (automatically starts the run) ..... 21
- Run times for different sample cartridges ..... 22
- Remove the sample cartridge from the instrument ..... 23
- Check the run result ..... 24
- View and export the run results ..... 25
- Sign out ..... 26

## Power on the internal computer

**IMPORTANT!** Leave the main power switch (on the back panel) set to On at all times.

Power is necessary to maintain the gel temperature.

Press the power button on the front lower-right of the instrument.

The power button changes from green ● to blue ●.

The startup screen is displayed until the instrument finishes the following operations.

- System check
- System prime, if needed ( $\leq 15$  minutes)

The lock screen is displayed after system startup is complete.

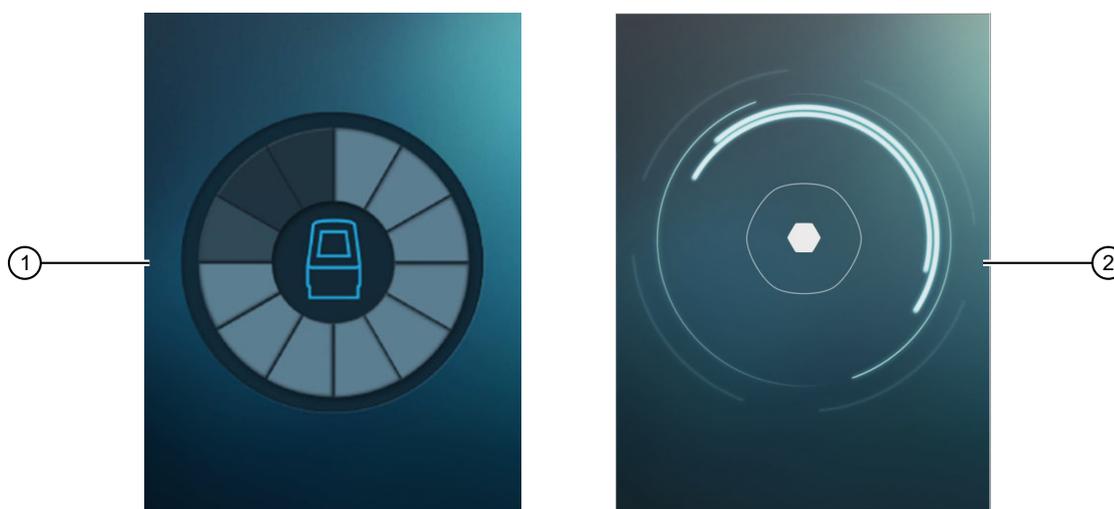


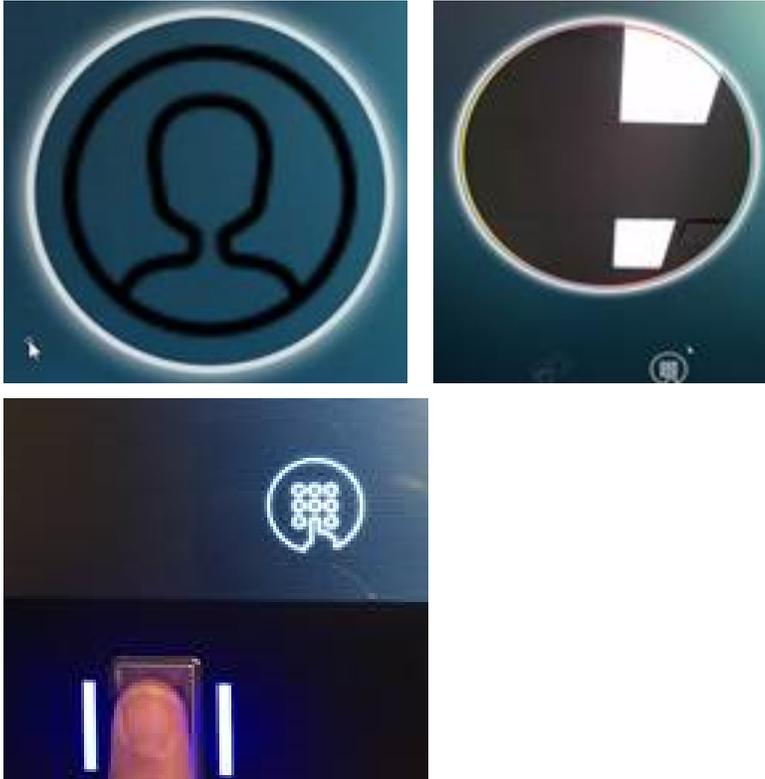
Figure 1 Startup and lock screens

- ① Startup screen
- ② Lock screen

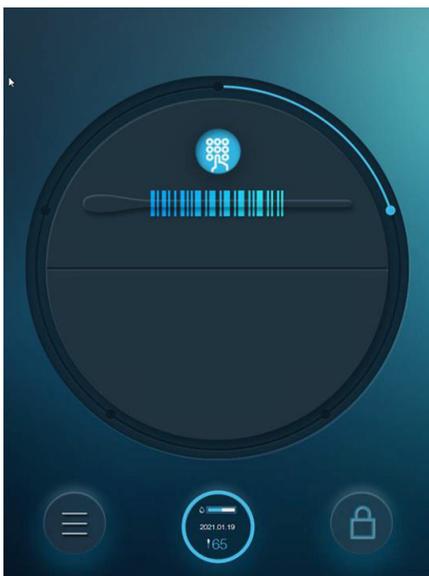
## Sign in to the instrument

You can sign in using any of the authentication methods that are configured for your profile.

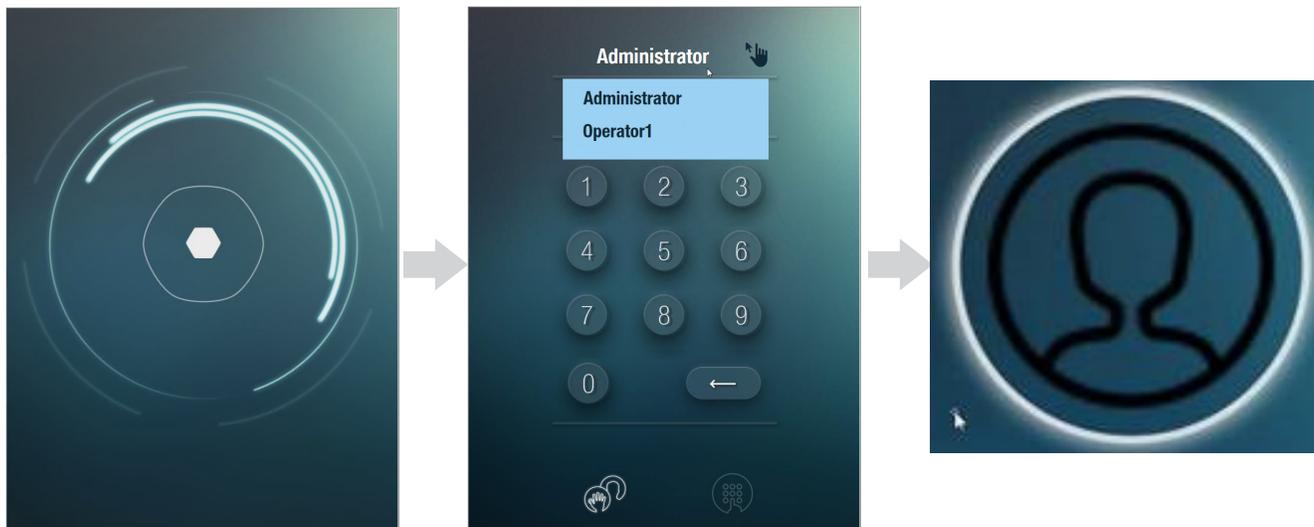
- To use facial recognition or fingerprint methods, position your face in front of the camera or touch the fingerprint reader.



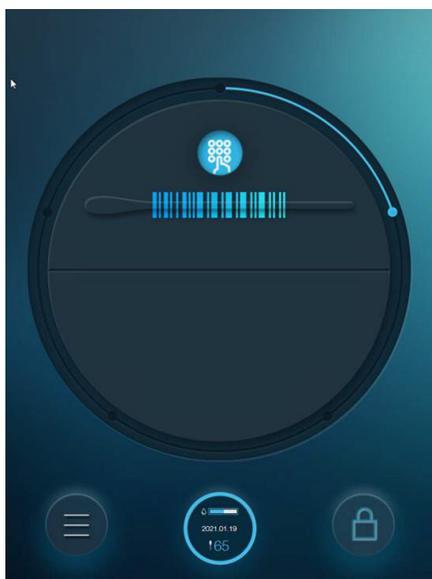
The sample identification screen is displayed.



- To use a PIN, perform the following steps.
  - a. Touch the lock screen.
  - b. Touch .
  - c. Touch , then select your user name.

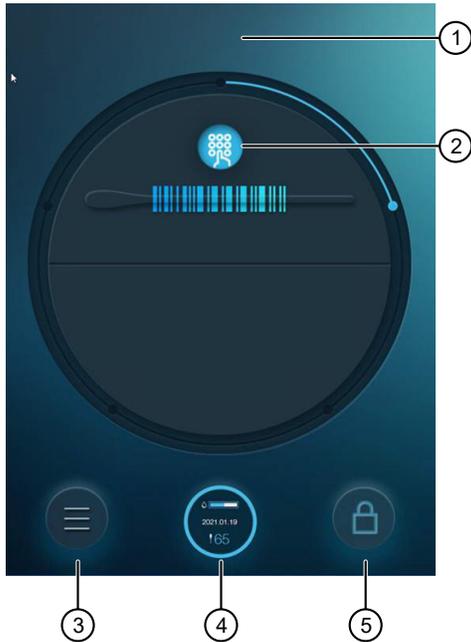


- d. Enter your PIN with the keypad.  
The sample identification screen is displayed.



If an error code is displayed when you sign in, see “An error code is displayed when you sign in” on page 47.

## Parts of the sample identification screen



- ① No icon is displayed if the instrument is connected to the RapidLINK™ Software.  
📶 Indicates that the instrument is not connected to the RapidLINK™ Software  
See “Check the RapidLINK™ Software connection” on page 46.
- ② Touch to display the keyboard to enter a sample identification number.
- ③ Touch to display the menu screen.
- ④ Displays the run count for the primary (reagent) cartridge. The run count indicates the number of runs that have been performed, not the number of runs that are remaining (for example, "65" indicates that 65 runs have been performed). For more information, see “View primary cartridge information” on page 36.
- ⑤ Touch to sign out and lock the touchscreen (displays the lock screen).

## Enter the sample identification number

### Scan a barcode with the camera

---

**Note:** You can also use a compatible handheld barcode scanner. For information on the compatible scanner, see “Required materials not supplied” on page 10.

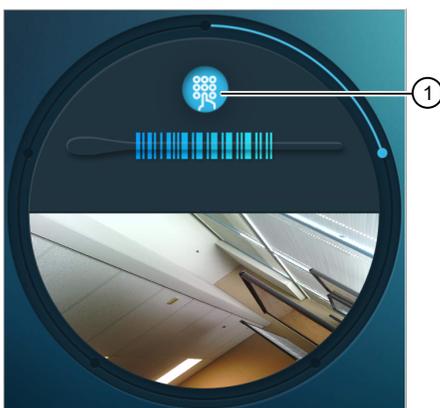
---

1. If the sample identification screen is not displayed, touch ⏪ until it is displayed.
2. Hold the barcode in front of the camera at the top left of the instrument.  
When the camera reads the barcode, the sample identification number is displayed.



## Enter a sample ID or barcode

1. If the sample identification screen is not displayed, touch until it is displayed.
2. Touch the sample identification screen.
3. Touch to display the keypad.



① Keypad

---

**Note:** The software allows you to enter the following characters for sample ID:  $\wedge ? \% * : | ' . < >$  space. However, it changes these characters to underscore(\_) when it creates the data file for the sample. The sample ID with underscores is displayed in the RapidLINK™ Software.

---

4. Enter the sample ID or barcode, then touch **Enter**.

---

**IMPORTANT!** Do not include the following in sample IDs: "ladder", "posctrl", or "negctrl" (case does not matter). The software processes any sample IDs that contain these names as allelic ladders or controls.

---

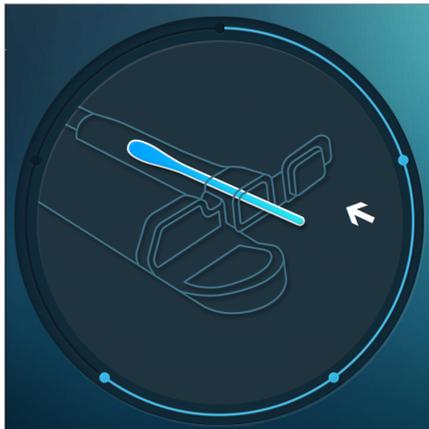
The sample identification number is displayed.



## Insert the sample cartridge into the instrument (automatically starts the run)

A sample cartridge run takes ~90–110 minutes to complete.

1. Insert the sample swab into the sample cartridge.



- When the insert sample cartridge screen is displayed, insert the sample cartridge (containing the sample swab) into the sample cartridge port. See the following figures.



The run starts automatically after you insert the sample cartridge. For more information, see “Run times for different sample cartridges” on page 22.

---

**IMPORTANT!** Do not remove the sample cartridge until you are prompted to do so (see “Remove the sample cartridge from the instrument” on page 23).

---

When the run is complete, the remove sample cartridge screen is displayed for ~30 seconds, then the currently signed-in user is automatically signed out.

## Run times for different sample cartridges

- The countdown timer starts at 110 minutes. The typical run time is ~90 minutes.
- The timer stops when the run is complete. The timer does not decrease to 0 minutes.

Cartridge	Run timer stops at
RapidHIT™ ID ACE GlobalFiler™ Express Sample Cartridge	~19 minutes
RapidHIT™ ID ACE NGM SElect™ Express Sample Cartridge	~19 minutes
RapidINTEL™ Sample Cartridge	~14 minutes

- If the instrument requires priming, the run time can extend up to 110 minutes.

The figure below shows a countdown timer example for an NGM SElect™ Express sample cartridge.

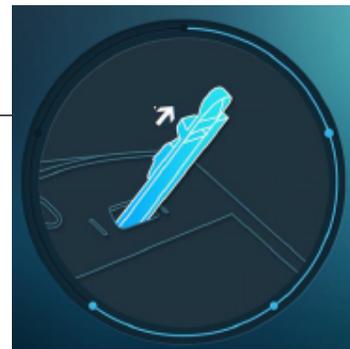


## Remove the sample cartridge from the instrument

1. If the lock screen is displayed, touch the lock screen, then sign in.
2. When the remove sample cartridge screen is displayed, remove the sample cartridge from the instrument.

**IMPORTANT!** Do not remove the cartridge until you are prompted to do so.

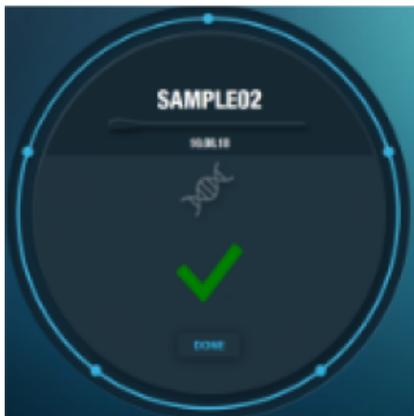
If you remove the cartridge before you are prompted to do so, the results screen is not displayed. To display the results screen, insert the cartridge again, wait until you are prompted to remove the cartridge, then remove the cartridge again.



If you cannot easily remove the sample cartridge, see “You cannot easily remove the sample cartridge from the instrument” on page 47.

The result is displayed.

3. Tap **Done** to dismiss the result screen.

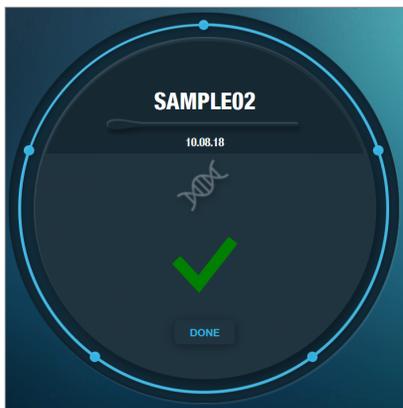


4. Discard the sample cartridge.

Use proper precautions for disposal. Follow local, state, provincial and federal regulations for disposal.

Proceed immediately to “Check the run result” on page 24.

## Check the run result



1. Review the status.

Status	DNA profile is generated	Meaning	Action
Green 	Yes	The DNA profile does not contain quality score flags.	The DNA profile is ready for analysis by the RapidLINK™ Software. No further action is needed on the instrument.
Yellow 	Yes	<ul style="list-style-type: none"> <li>The DNA profile contains quality score flags, or</li> <li>The run result contains only size standard peaks. It does not contain sample peaks.</li> </ul>	The DNA profile is available for review in the RapidLINK™ Software. Proceed according to your standard operating protocol.
Red 	No	The DNA profile was not generated.	A DNA profile is <i>not</i> available for review in the RapidLINK™ Software. Proceed according to your standard operating protocol.

2. Click **Done** to dismiss the status.

The instrument automatically signs out the user and displays the lock screen.

## View and export the run results

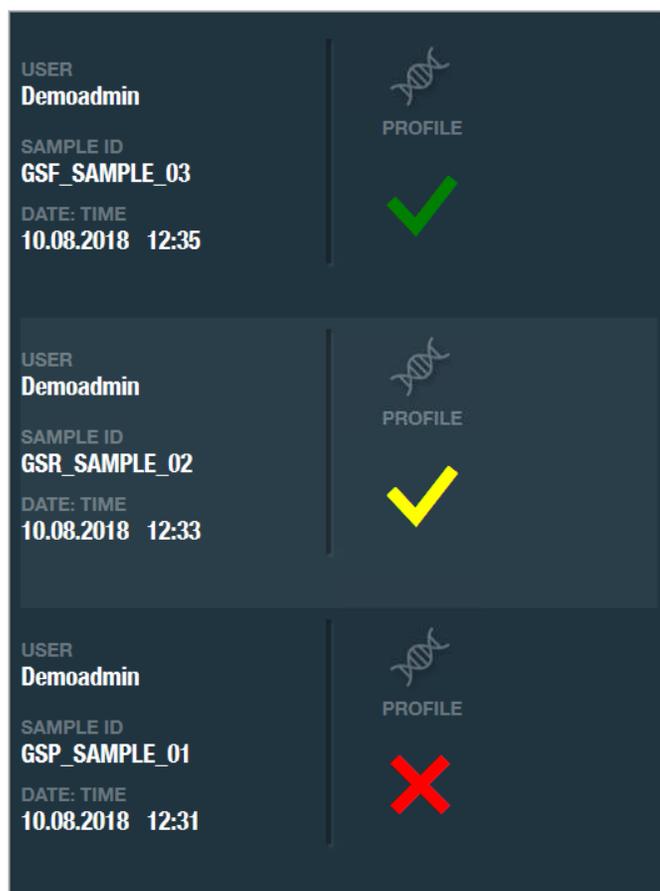
This function lists the results for the runs performed by the signed-in user.

1. Touch  (**Menu**).

2. Touch  (**Run Data**).

The screen displays the status from the results screen: Green , Yellow , Red .

The following figure is an example of the run log for one user that shows each status.



3. (Optional) To export, insert a USB device into the front USB port on the instrument. Touch **Export**.

**Note:** The **Export** button is not displayed if:

- The RapidHIT™ ID Instrument is configured to delete the run data after it is transferred to the RapidLINK™ Software.
- There is no USB device inserted into a USB port.

The run data is copied to the USB device and is also retained on the instrument.

## Sign out

**IMPORTANT!** Leave the main power switch (on the back panel) set to On at all times.

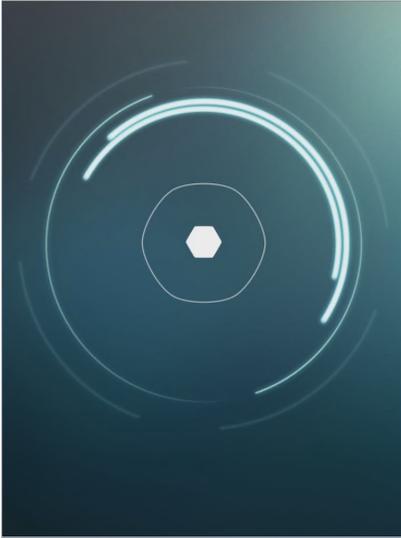
Power is necessary to maintain the gel temperature.

The signed-in user is automatically signed out when a run is complete.

You can also sign out manually.

1. If the sample identification screen is not displayed, touch  until it is displayed.
2. Touch .

The lock screen is displayed.



# 4

## Manage the instrument and software

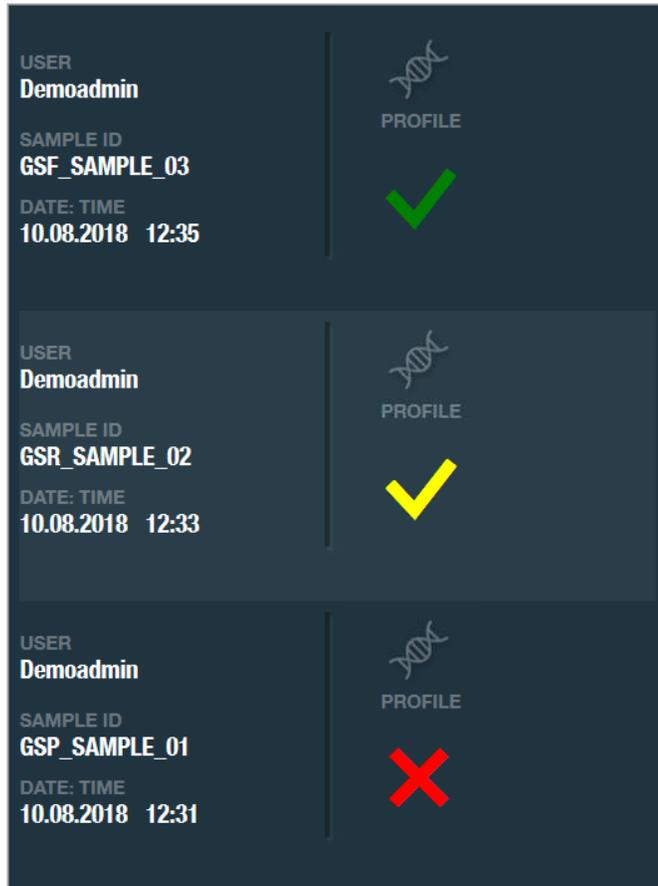
- View and export the run results for all runs (administrator or supervisor only) ..... 28
- Configure instrument settings (administrator or supervisor only) ..... 29
- Manage users (administrator only) ..... 31

### View and export the run results for all runs (administrator or supervisor only)

1. Sign in as an administrator or a supervisor.
2. Touch  (**Menu**).
3. Touch  (**Run Data**).

The screen displays the status from the results screen: Green , Yellow , Red .

The following figure is an example of the run log for one user that shows each status.



4. (Optional) To export, insert a USB device into the front USB port on the instrument. Touch **Export**.

**Note:** The **Export** button is not displayed if:

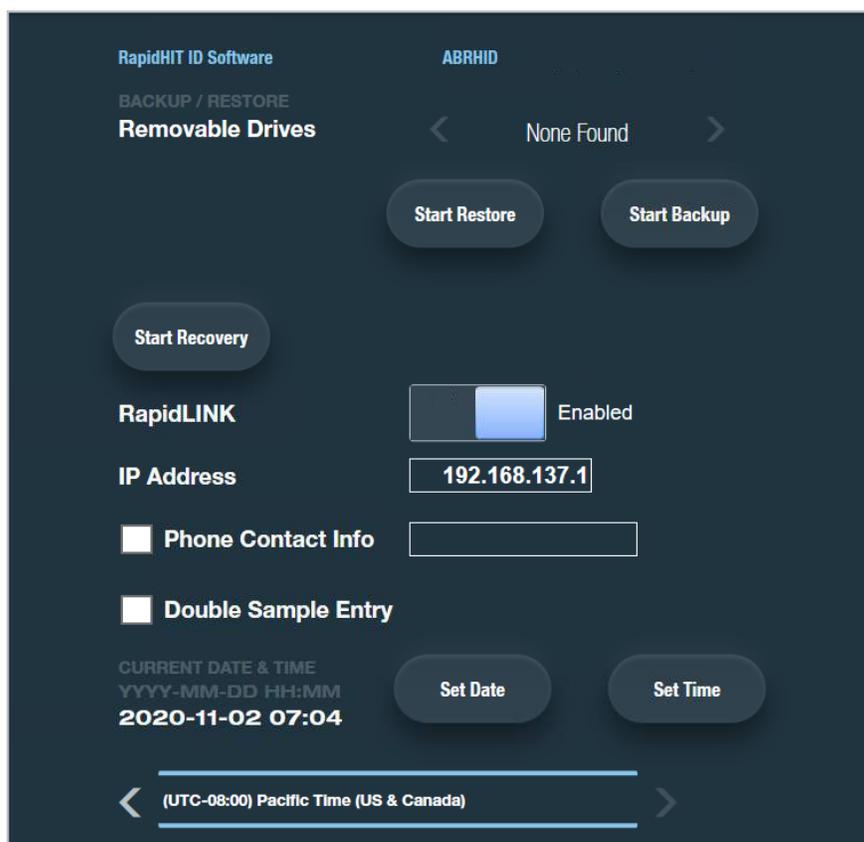
- The RapidHIT™ ID Instrument is configured to delete the run data after it is transferred to the RapidLINK™ Software.
- There is no USB device inserted into a USB port.

The run data is copied to the USB device and is also retained on the instrument.

## Configure instrument settings (administrator or supervisor only)

1. Sign in as an administrator or a supervisor.
2. Touch  (**Menu**).
3. Touch  (**Settings**).

4. In the settings screen, configure the instrument settings as needed.



Setting	Description	User access
Start Backup and Start Restore	See “Back up and restore data (administrator only)” on page 45.	Administrator
Start Recovery	Reset the instrument hardware. See “Recover the instrument (administrator or supervisor only)” on page 45.	Administrator or supervisor
RapidLINK	Make the instrument available for selection in the RapidLINK™ Software.	Administrator
IP Address	The IP address of the RapidLINK™ Software. The address is displayed after the RapidLINK™ Software connects to the instrument.	Read-only, can be seen by anyone
Phone Contact Info	The phone number of the primary contact for the instrument. This number is displayed in diagnostic code screens.	Administrator
Double Sample Entry	This function cannot be disabled in this version of the software.	Administrator or supervisor
Set Date and Set Time	Sets the instrument date and time.	Administrator

## Manage users (administrator only)

### User roles and permissions

User role	Permission to perform the following tasks
Operator	<ul style="list-style-type: none"> <li>Perform a run</li> <li>View the run log for the signed-in user</li> </ul>
Supervisor	Operator tasks, plus: <ul style="list-style-type: none"> <li>Replace a primary cartridge</li> <li>View the run log for all users</li> <li>Recover (reset) the instrument</li> <li>Export run data to a USB device</li> </ul>
Admin (administrator)	Operator and supervisor tasks, plus: <ul style="list-style-type: none"> <li>Create a user</li> <li>Back up and restore</li> <li>Enable/disable RapidLINK™ connection</li> <li>Change the date, time, and time zone</li> </ul>

### Add a user

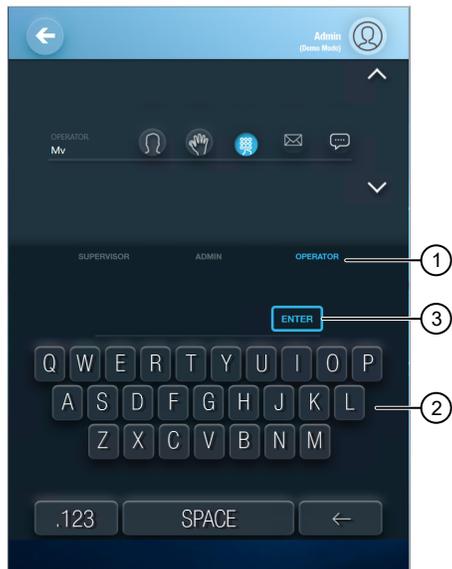
---

**Note:** By default, when a user account is created on one RapidHIT™ ID Instrument, that same user account is authorized for all instruments on the same network. If needed, an administrator can remove the authorization for individual instruments (see “Remove authorization for an instrument” on page 34).

---

1. Sign in as an administrator.
2. Touch  (**Menu**).
3. Touch  (**Manage users**).

4. Touch **+ [Add user]**.



- ① Select a user role
- ② Enter a user name
- ③ Touch **Enter**

5. To assign a role to the user, touch **Supervisor, Admin, or Operator**.

For a description of user roles, see “User roles and permissions” on page 31.

6. Enter a user name, then touch **Enter**.

7. Touch a user authentication method.



- ① User authentication methods

Option	Procedure
<p><b>Face Recognition</b></p> 	<ol style="list-style-type: none"> <li>1. Adjust the user position so that the face is centered in the live camera view.</li> <li>2. Touch <b>Start Face Scan</b>.</li> </ol>
<p><b>Fingerprint Scan</b></p> 	<ol style="list-style-type: none"> <li>1. Place any of the user's fingers on the fingerprint pad on the front of the instrument.</li> <li>2. Remove and touch as instructed by the software.</li> </ol> <p><b>Note:</b> The Fingerprint Scan function may be disabled for your laboratory.</p>
<p><b>Password/PIN</b></p> 	<p>Enter a <b>PIN</b> (6 characters) two times.</p>

8. (Optional) Add an email address or SMS mobile phone number.

---

**Note:** The profile picture function is not supported in this version of software.

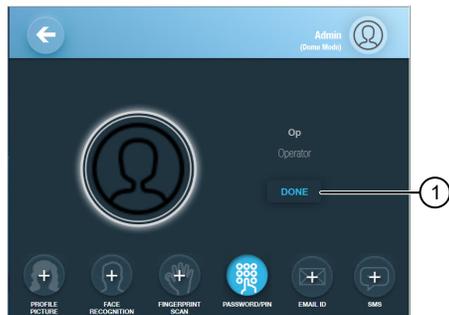
---

9. Touch .

A success message screen is displayed.



10. Touch the success message screen to close it, then touch **Done** to close the add user screen.



- ① Touch **Done**

## Remove authorization for an instrument

When you remove authorization, you prevent the user from signing in to an instrument.

In the RapidLINK™ Software, remove the instrument from the **Authorized Instruments** list for the user. For a detailed procedure, see the *RapidLINK™ Software v1.1.5 User Guide*.

---

**Note:** Removing authorization applies only to a single instrument. If you want to remove authorization for multiple instruments, repeat this procedure for each instrument.

---

**Note:** If an instrument is disconnected from the network during this process, the user authorization will not be removed for that instrument when the instrument is reconnected.

---



# Maintain the instrument

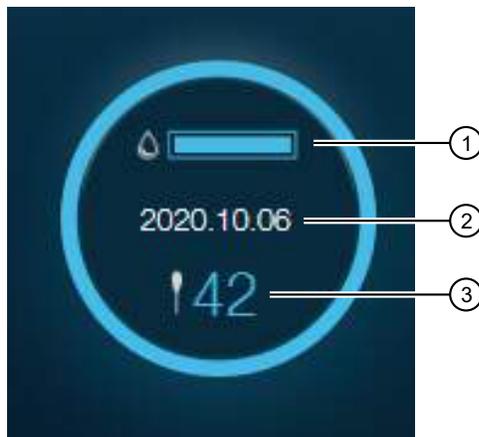
- Routine maintenance ..... 35
- View primary cartridge information ..... 36
- Replace the primary cartridge (administrator or supervisor only) ..... 37
- Run a control cartridge ..... 44
- Back up and restore data (administrator only) ..... 45
- Recover the instrument (administrator or supervisor only) ..... 45
- Prepare the instrument for shipping ..... 45

## Routine maintenance

Task	Frequency
Run a sample cartridge if the instrument is not in use daily	At minimum, once every 7 days
Clean the touchscreen. <ol style="list-style-type: none"><li>1. Power off the internal computer.</li><li>2. Spray with a non-abrasive glass cleaner, then gently wipe the screen with lint-free lab tissues.</li></ol>	As needed

## View primary cartridge information

If the sample identification screen is not displayed, touch  until it is displayed. The screen displays the gel volume, expiration date, and number of runs performed for the primary cartridge.



- ① Gel volume—Indicates the amount of gel remaining in the primary cartridge. When the amount of gel remaining is 30–16%, the outer ring turns yellow. When the amount of gel remaining is  $\leq 15\%$ , the outer ring turns red. The primary cartridge, including gel, must be changed when the outer ring is red.
- ② Expiration date—Indicates the expiration date of the gel or the primary cartridge, whichever is closest to expiration. The primary cartridge, including gel, must be changed when the expiration date is reached. Buffer expiration is considered in the primary cartridge expiration date.
- ③ Number of runs—The run count for the primary cartridge. The run count indicates the number of runs that have been performed, not the number of runs that are remaining (for example, "42" indicates that 42 runs have been performed).

# Replace the primary cartridge (administrator or supervisor only)

This procedure requires ~2 hours to complete.

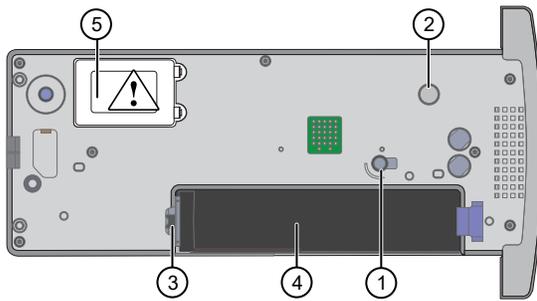
---

**Note:** For RapidINTEL™ Sample Cartridge applications, use a GFE primary cartridge.

---

## Parts of the primary cartridge

The following figures illustrate the parts of the primary cartridge. The parts are listed in the order of removal when you prepare a new primary cartridge.

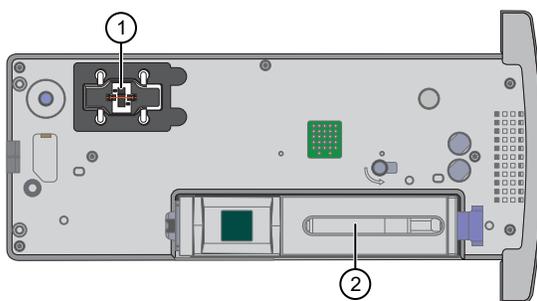


**Figure 2** Parts of the primary cartridge before preparation

- ① Shipping plug on check valve
- ② Shipping plug on cathode block
- ③ Gel cartridge inlet
- ④ Gel cartridge slot
- ⑤ Shipping cover on capillary



**CAUTION!** The capillary is fragile. Handle the primary cartridge with care after you remove the capillary cover.



**Figure 3** Primary cartridge after preparation

- ① Capillary
- ② Gel cartridge

## Prepare a new primary cartridge

You need the following components for this procedure:

- New primary cartridge
- Gel cartridge that is provided with the new primary cartridge
- Utility cartridge that is provided with the new primary cartridge

See Figure 2 on page 37 for the location of the parts of the primary cartridge.

1. Sign in as an administrator or a supervisor.
2. Touch  (**Menu**).
3. Touch  (**Primary cartridge**).

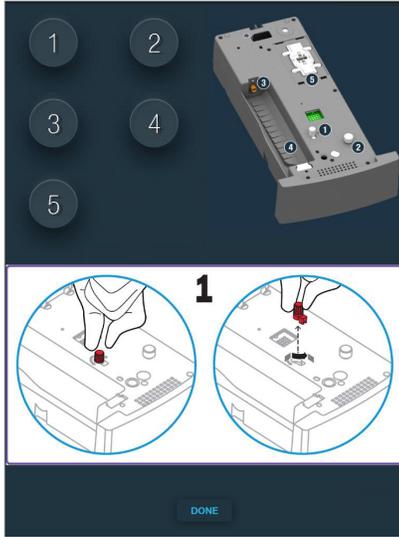


① Primary cartridge icon

4. Touch **Yes** to confirm that you want to remove the primary cartridge.



The first primary cartridge screen is displayed.

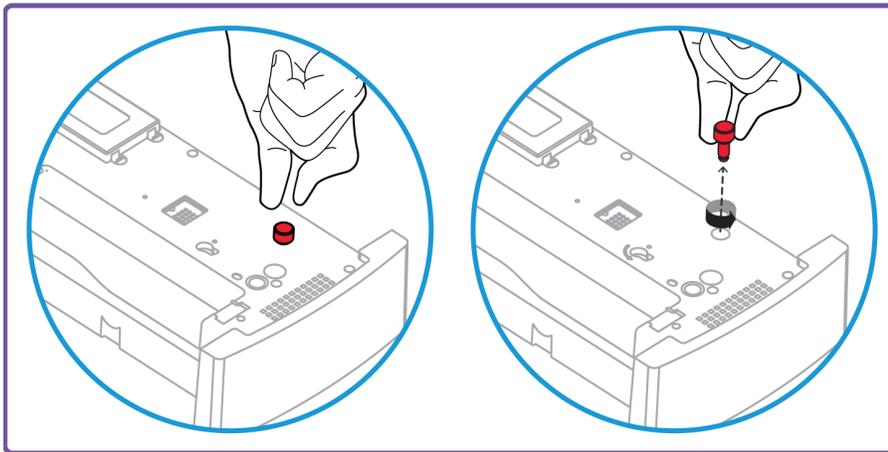


---

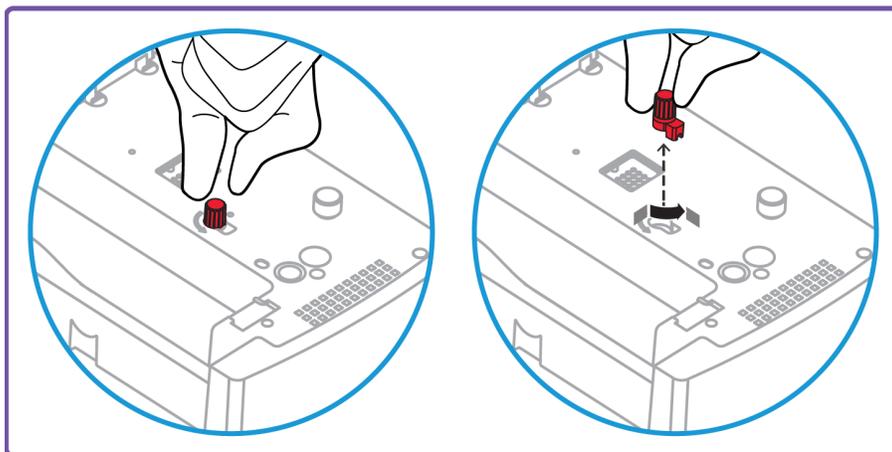
**Note:** You can touch the numbered buttons to display illustrations for the following steps.

---

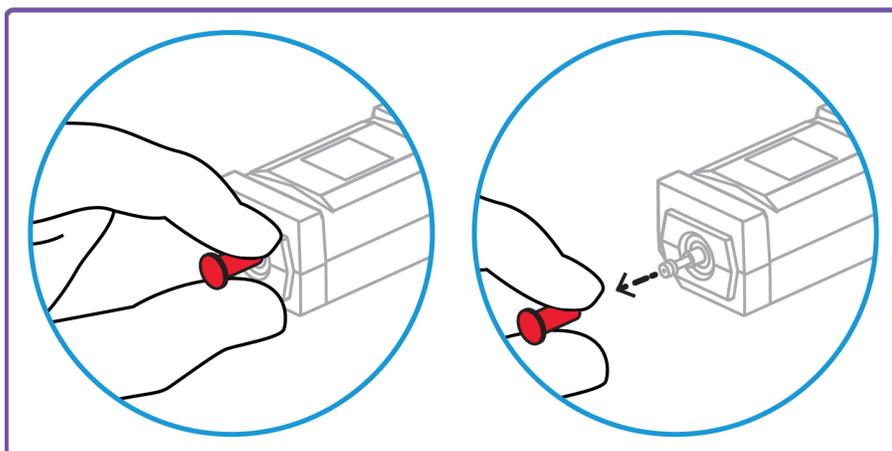
5. Unscrew the shipping plug in the cathode block.



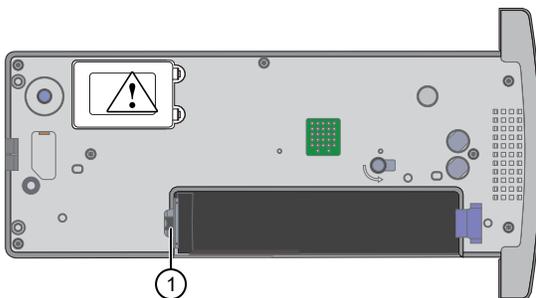
6. Turn the shipping plug in the check valve 90° counterclockwise, then remove it.



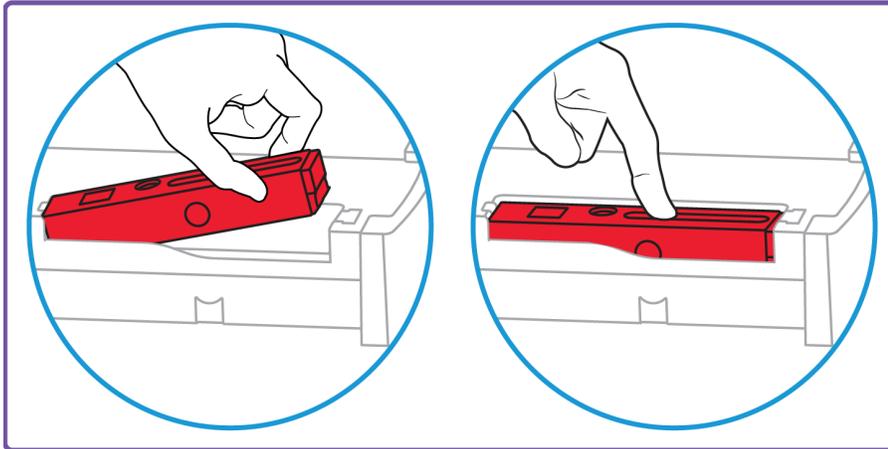
7. Gel cartridge: Remove the shipping plug from the gel cartridge inlet by pulling the plug straight out of the inlet. Do not twist the plug when removing.



8. Insert the gel cartridge into the primary cartridge with the tip of the gel cartridge facing the gel cartridge inlet and the square marker on the top.



① Gel cartridge inlet

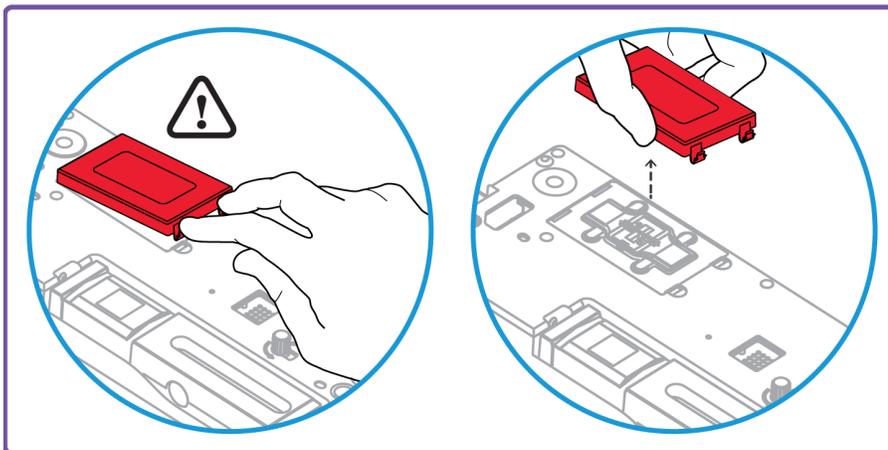


The gel cartridge clicks when it is fully inserted into the primary cartridge.

9. Remove the shipping cover from the capillary by pressing the brackets toward the cover, then swinging the cover up and away from the capillary.



**CAUTION!** The capillary is fragile. Handle the primary cartridge with care after you remove the capillary cover.

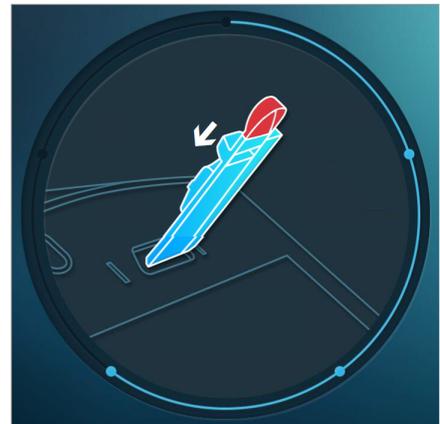


10. Touch **Done** at the bottom of the primary cartridge screen.



11. When the insert utility cartridge screen is displayed, insert the utility cartridge into the instrument. The utility cartridge has a red label and is provided with the new primary cartridge.

A countdown timer starts at 9 minutes while the instrument disengages the primary cartridge. After ~3 minutes, the remove primary cartridge screen is displayed (see step 1 on page 43).



## Insert the prepared primary cartridge (administrator or supervisor only)

You need the following components for this procedure:

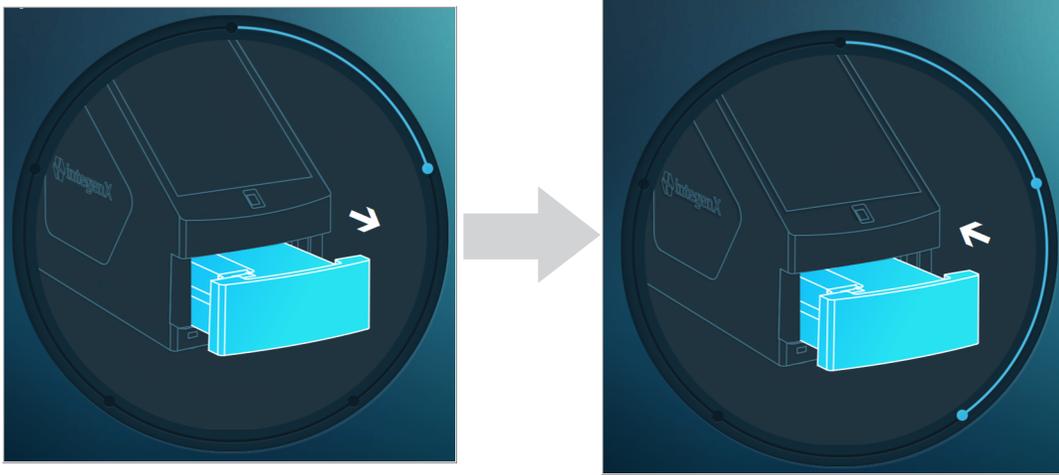
- Prepared primary cartridge
- Allelic ladder cartridge that is provided with the new primary cartridge
- Positive and negative control cartridges that are provided with the new primary cartridge

---

**Note:** The software does not prompt you to run the control cartridges after you insert a new primary cartridge. Run the control cartridges according to your standard operating protocol.

---

1. When the remove primary cartridge screen is displayed (~3 minutes after you insert the utility cartridge in the instrument in step 11 in the previous procedure), pull the used primary cartridge out of the instrument.



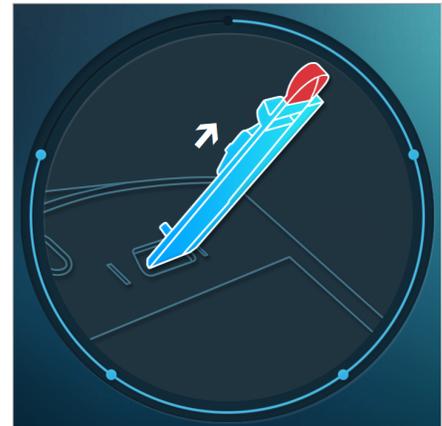
2. When the insert primary cartridge screen is displayed, insert the new prepared primary cartridge into the instrument.



**CAUTION!** The capillary is fragile. Do not let the capillary contact the instrument when you insert the prepared primary cartridge.

A countdown timer is displayed. The instrument performs a full 90-minute run.

3. When the remove utility cartridge screen is displayed, remove the utility cartridge from the instrument.
4. Run the allelic ladder cartridge: Insert and remove the allelic ladder cartridge when the associated screen is displayed.  
The software displays a Green  for a ladder profile that contains the expected number of alleles and a Red  for a ladder profile that does not contain the expected number of alleles. Follow your standard operating protocol for how to proceed.



5. Run the positive and/or negative control cartridge according to your standard operating procedure. See “Check the run result” on page 24.

Discard the used primary and allelic ladder cartridges.

Use proper precautions for disposal. Follow local, state, provincial and federal regulations for disposal.

## Run a control cartridge

**Note:** For RapidINTEL™ Sample Cartridge applications, use a GFE control (allelic ladder) cartridge.

1. If the sample identification screen is not displayed, touch  until it is displayed.
2. Insert the control cartridge in the instrument.  
The instrument reads the label on the cartridge and automatically assigns the sample identification as "POSCTRL", "NEGCTRL", or "LADDER".

**Note:** If you enter names other than the names listed above, the names are overwritten in the RapidLINK™ Software with the names listed above.

3. When the run is complete, remove the cartridge from the instrument.
4. Review the status and take the appropriate action. See Table 5.
5. Touch **Done**. The instrument automatically signs out the user and displays the lock screen.

**Table 5 Control cartridge results**

Results for positive, negative, and/or allelic ladder control cartridges

Status	DNA profile was generated	Meaning	Action
Green 	Yes	<ul style="list-style-type: none"> <li>• The DNA profile does not contain quality flags.</li> <li>• Expected alleles were called in the positive control or allelic ladder profile.</li> <li>• No alleles were called in the negative control profile.</li> </ul> <p><b>Note:</b> Passing allelic ladder profiles are added to the allelic ladder library on the instrument.</p>	No further action is needed on the instrument.
Red 	No	<ul style="list-style-type: none"> <li>• The DNA profile was not generated, or the results were not as expected.</li> <li>• Expected alleles <i>were not</i> called in the positive control or allelic ladder profile.</li> <li>• Alleles <i>were</i> called in the negative control profile.</li> </ul>	Follow your standard operating protocol for how to proceed.

## Back up and restore data (administrator only)

The backup function copies run data from the instrument to a USB device. It does not copy user profiles or instrument settings.

The restore function overwrites the run data on the instrument with the run data from the USB device.

1. Insert a USB device into the USB port on the front of the instrument.

The **Removable Drives** field displays the name of the USB device.

2. In the settings screen, touch **Start Backup** or **Start Restore**.

The **Start Backup** button or **Start Restore** buttons change to **Abort** and a progress bar is displayed. When the procedure is complete, a message is displayed.



① Backup and restore functions

## Recover the instrument (administrator or supervisor only)

The recovery function resets the sample cartridge hardware in the instrument.

This function does not affect run data, user profiles, or settings.

1. In any screen, touch .
2. In the settings screen, touch **Start Recovery**.
3. Follow the prompts that are displayed on the screen.

## Prepare the instrument for shipping

Contact Thermo Fisher Scientific Support for requirements.



# Troubleshooting

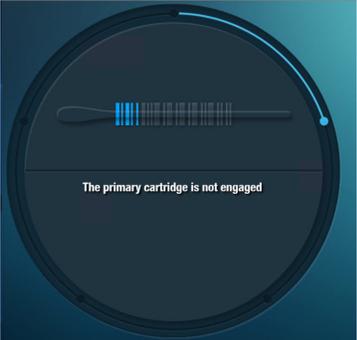
- Check the RapidLINK™ Software connection ..... 46
- Troubleshooting: Symptoms, causes, and actions ..... 46

## Check the RapidLINK™ Software connection

1. In the sample identification screen, check the top of the screen.  
If  is displayed, the instrument is not connected to the software.
2. Ensure that the **RapidLINK** setting is enabled. See “Configure instrument settings (administrator or supervisor only)” on page 29.

## Troubleshooting: Symptoms, causes, and actions

Observation	Possible cause	Recommended action
Red X on cartridge screen 	Sample cartridge is expired.  Sample cartridge is inserted improperly in instrument.	Obtain a new swab and prepare a new cartridge.  Remove the sample cartridge from the instrument and re-insert.
A yellow triangle is displayed on the lock screen 	An error code has been generated.	Touch the lock screen to obtain the error code. Contact Thermo Fisher Scientific Support.

Observation	Possible cause	Recommended action
An error code is displayed when you sign in 	There is a problem with the instrument.	Record the error code. Contact Thermo Fisher Scientific Support.
 is displayed on the sample identification screen	 Indicates that the instrument is not connected to the RapidLINK™ Software.	See “Check the RapidLINK™ Software connection” on page 46.
You cannot easily remove the sample cartridge from the instrument	The sample cartridge is locked in the sample cartridge port.	RapidHIT™ ID system administrator or supervisor: Run the recover function (see “Recover the instrument (administrator or supervisor only)” on page 45).
A power failure occurs during a run	Various causes.	If the power failure occurs early in the run, the run will stop and it will not be listed in the run log. Obtain a new swab and rerun the sample.  If the power failure occurs late in the run but before analysis starts, the run will be listed in the run log with a red  .  If the power failure occurs after analysis is complete, the run will be listed in the run log with a green  if it passes or a red  if it fails.
"The primary cartridge is not engaged" message is displayed on the sample identification screen 	There is a problem with the instrument or the primary cartridge.	Contact Thermo Fisher Scientific Support.



## Appendix A Troubleshooting

*Troubleshooting: Symptoms, causes, and actions*

Observation	Possible cause	Recommended action
RapidINTEL™ run is listed as a GFE run in RapidLINK™ Software	A RapidINTEL™ cartridge run failed on the instrument and the correct cartridge information is not sent to the RapidLINK™ Software.	No action.



# Instrument specifications

- Dimensions, clearance, and weight ..... 49
- Instrument layout and connections ..... 50
- Environmental requirements ..... 52
- Electrical requirements ..... 53

## Dimensions, clearance, and weight

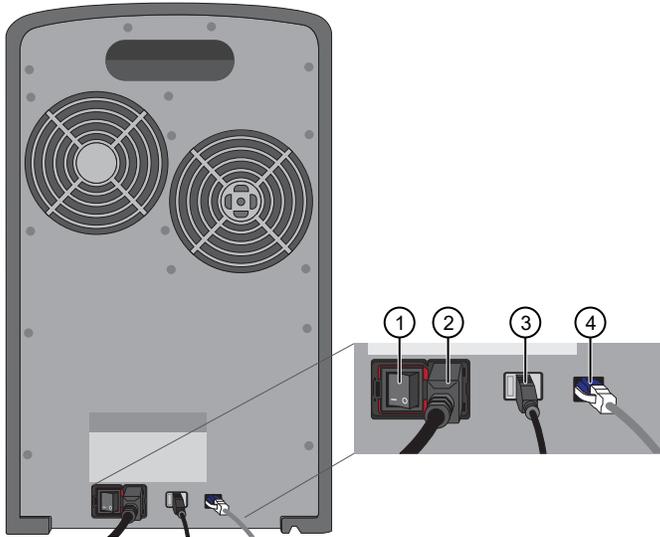
Specification	Height	Length (depth)	Width	Weight
Dimension	48 cm (19 in.)	53 cm (21 in.)	27 cm (10.5 in.)	<ul style="list-style-type: none"> <li>• 28.4 kg (62.6 lb.)— With primary cartridge</li> <li>• 25.4 kg (56.0 lb.)— Instrument only</li> <li>• 3.0 kg (6.6 lb.)— Primary cartridge only</li> </ul>
Additional clearance	25 cm (10 in.)	28 cm (11 in.)  Minimum rear clearance is 10 cm (4 inches). Clearance is required to allow air flow around the instrument and to allow the power cord to be easily removed without moving the instrument.	13 cm (5 in.)  64 cm (25 in.) required on one side for computer	N/A

## Instrument layout and connections



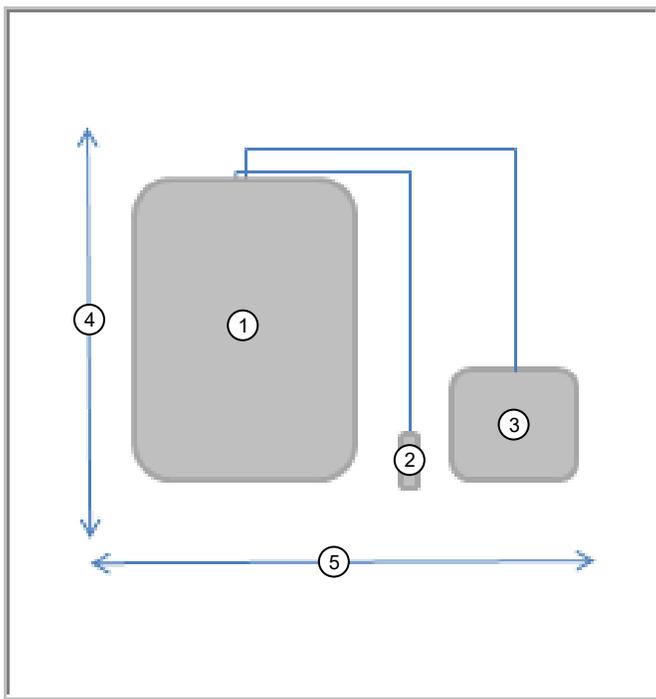
**Figure 4** Dimensions and clearances

- ① Height 48 cm (19 in.)
- ② Height clearance 25 cm (10 in.)
- ③ Length (depth) 53 cm (21 in.)
- ④ Length (depth) clearance 28 cm (11 in.)  
Length (depth) clearance when replacing the primary cartridge 114 cm (45 in.)
- ⑤ Width 27 cm (10.5 in.)
- ⑥ Width clearance 13 cm (5 in.)  
64 cm (25 in.) required on one side for computer



**Figure 5 Rear panel**

- ① Main power switch
- ② Power connection
- ③ USB port for optional barcode scanner connection
- ④ Ethernet port for computer connection



**Figure 6 Component connections**

- ① Instrument
- ② Optional barcode scanner
- ③ Computer
- ④ Total length (depth) space required 109 cm (43 in.)
- ⑤ Total width space required 116 cm (45 in.)

## Environmental requirements

Condition	Requirement
Installation site	Indoor use only
Altitude	Safety tested up to 2,600 meters (8,500 feet)
Electromagnetic interference	Do not use this instrument near sources of strong electromagnetic radiation (for example, unshielded intentional RF sources). Strong electromagnetic radiation can interfere with the proper operation of the device.
Transient/overvoltage category	Installation categories II
Vibration	Do not install the instrument near strong vibration sources, such as a centrifuge, pump, or compressor. Excessive vibration affects instrument performance.
Pollution degree	II  Do not install the instrument in an environment that has nonconductive pollutants such as dust particles or wood chips. Typical environments with a Pollution Degree II rating are laboratories and sales and commercial areas.
Operating conditions	<ul style="list-style-type: none"> <li>15°C–30°C (59°F–86°F) (Room temperature should not fluctuate <math>\pm 2^\circ\text{C}</math> during an instrument run)</li> <li>20–80% relative humidity, noncondensing</li> </ul>
Storage conditions	<p>For instrument only without primary cartridge installed: 4°C to 40°C (39°F to +104°F) Minimum 20% relative humidity, maximum 80% (non-condensing)</p> <p><b>IMPORTANT!</b></p> <ul style="list-style-type: none"> <li>The primary cartridge requires storage at 15°C to 30°C (59°F to +86°F).</li> <li>The gel cartridge requires storage at 4°C to 10°C (39°F to +50°F).</li> </ul>
Transport conditions	–20°C to +60°C (–4°F to +140°F) Minimum 20% relative humidity, maximum 80% (non-condensing)
Other conditions	<p>Ensure that the room is away from any vents that could expel particulate material on the components.</p> <p>Avoid placing the instrument and computer near heaters, cooling ducts, or in direct sunlight.</p>

## Electrical requirements



**CAUTION!** Do not unpack or plug in any components until they are configured for the proper operating voltage by the service representative.



**WARNING!** For safety, the power outlet for the instrument must be accessible at all times. In case of emergency, you must be able to immediately disconnect the main power supply to all the equipment. Allow sufficient space between the wall and the equipment so that the power cords can be disconnected in case of emergency.

- Dedicated line and ground between the instrument and the main electrical service
- Maximum power dissipation: 230 W, 370 VA (not including computer)
- Mains AC line voltage tolerances should not exceed  $\pm 10$  percent of nominal voltage
- Maximum current: 3 A
- Fuse rating: 5 A, 250 V, Slow-blow, 5 × 20 mm

Device	Rated voltage	Circuit required	Rated frequency	Rated power
Instrument	100–240 $\pm 10\%$ VAC <sup>[1]</sup>	$\geq 10$ A	50/60 Hz	600 W

<sup>[1]</sup> If the supplied power fluctuates beyond the rated voltage, a power line regulator may be required. High or low voltages can adversely affect the electronic components of the instrument.



# Analysis settings

- Threshold settings ..... 54
- Display analysis settings in the GeneMarker™ HID STR Human Identity Software ..... 56
- Analysis settings: GlobalFiler™ Express sample cartridges ..... 57
- Analysis settings: RapidINTEL™ sample cartridges ..... 58
- Analysis settings: NGM SElect™ Express sample cartridges ..... 60

## Threshold settings

Table 6 Threshold settings (contained in panel)

System Threshold	RapidHIT™ ID ACE GlobalFiler™ Express Sample Cartridge	RapidINTEL™ Sample Cartridge	RapidHIT™ ID ACE NGM SElect™ Express Sample Cartridge
Analytical threshold	35 RFU	50 RFU	All loci 50, except: SE33 = 35
Stochastic threshold (inconclusive Homozygous (IHO flag) threshold)	All loci 91 RFU, except: <ul style="list-style-type: none"> <li>• TPOX = 105</li> <li>• Y indel = 35</li> <li>• DYS391 = 35</li> <li>• TH01 = 140</li> <li>• SE33 = 105</li> <li>• D12S391 = 105</li> <li>• D2S1338 = 105</li> </ul>	1,600 RFU  50 RFU for Y indel and DYS391	All loci 150, except: <ul style="list-style-type: none"> <li>• D22S1045 = 200</li> <li>• TH01 = 200</li> <li>• D2S441 = 100</li> <li>• D1S1658 = 100</li> <li>• SE33 = 105</li> </ul>
Minimum peak height ratio threshold (Heterozygote Imbalance (IMB flag) threshold)	40%	40%	40%
		99% for Y indel and DYS391	
Minimum heterozygous peak intensity threshold (inconclusive Heterozygous (IHE flag) threshold)	—	640 RFU	—
Stutter filters	20%	Locus-specific <sup>[1]</sup>	20%



**Table 6** Threshold settings (contained in panel) (continued)

System Threshold	RapidHIT™ ID ACE GlobalFiler™ Express Sample Cartridge	RapidINTEL™ Sample Cartridge	RapidHIT™ ID ACE NGM SElect™ Express Sample Cartridge
Locus-specific filter	20%	21%	20%
		30% for the positive control	
Ploidy (PL flag) threshold (maximum number of expected peaks)	2	2	2
Global filter (between loci)	20%	21%	20%
		30% for the positive control	
Minimum off-ladder (OL) intensity	30 RFU	30 RFU	30 RFU

[1] See Table 7.

**Table 7** RapidINTEL™ Sample Cartridge Stutter thresholds. When not indicated, the stutter threshold is –4 nucleotides from the allele peak.

Dye	Marker	Avg Stutter + 4SD (%)
6-FAM™	D3S1358	27
	vWA	25
	D16S539	25
	CSF1PO	22
	TPOX	16
VIC™	Y indel (stutter –2) <sup>[1]</sup>	21
	AMEL (stutter –9) <sup>[1]</sup>	21
	D8S1179	20
	D21S11	25
	D18S51	28
	DYS391	18
NED™	D2S441	16
	D19S433	29
	TH01	18
	FGA	27



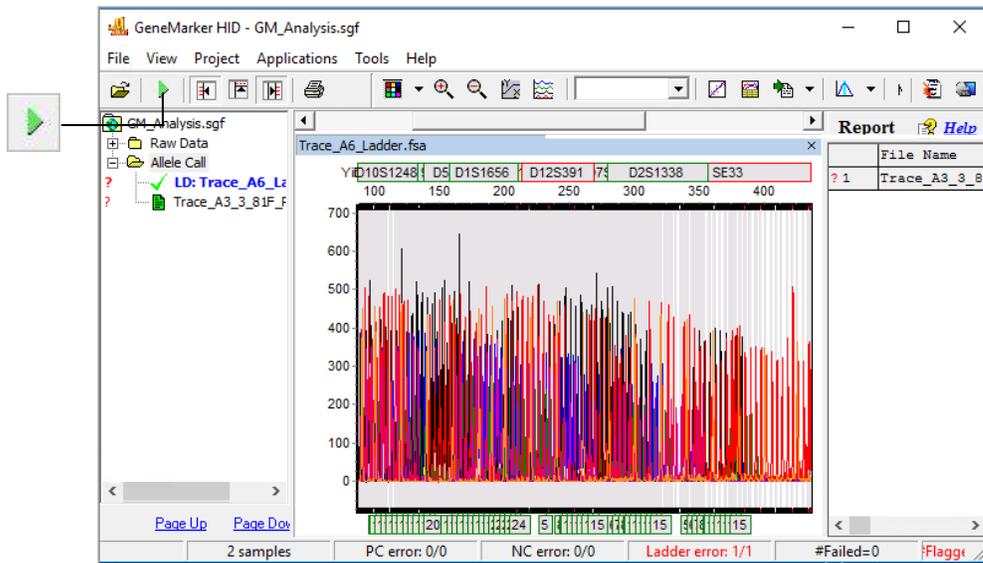
**Table 7 RapidINTEL Sample Cartridge Stutter thresholds. When not indicated, the stutter threshold is –4 nucleotides from the allele peak. (continued)**

Dye	Marker	Avg Stutter + 4SD (%)
TAZ™	D22S1045 (stutter –3)	34
	D5S818	26
	D13S317	18
	D7S820	18
	SE33	30
SID™	D10S1248	29
	D1S1656	26
	D12S391	30
	D2S1338	31

[1] Stutter threshold is set to the same value as the locus-specific filter values and will have no effect on filtering.

## Display analysis settings in the GeneMarker™ HID STR Human Identity Software

1. Open a sample in the RapidLINK™ Software.
2. Double-click the sample to open the GeneMarker™ HID Software.
3. Click .





The **Run Wizard** screens are displayed with analysis settings. Click **Next** to display additional settings screens.

## Analysis settings: GlobalFiler™ Express sample cartridges

**Run Wizard**  
Template Selection  
Set the template of the project

Select an existing template or create one

- GlobalFiler
- Identifier
- Minifiler
- PowerPlexFusion\_6C
- PowerPlexY23
- PowerPlex\_16
- PowerPlex\_18D
- PowerPlex\_21
- PowerPlex\_FST 17

Use last template

Template Name: LastTemplate

Panel: Globalfiler DX1

Size Standard: DY632PLUS\_V3

Standard Color: Orange

Save Delete << Back Next >> Cancel

**Run Wizard**  
Data Process - HID Analysis  
Set data process options

**Raw Data Analysis**

Auto Range (frame)  
Start: 0 End: 10000

Smooth  Enhanced Smooth

**Baseline Subtraction:**

Superior  Classic  Enhanced

Pull-up Correction  Spike Removal

Saturation Detection  Saturation Repair

**Size Call**

Local Southern  Cubic Spline

Size Std Filter

**Allele Call**

Auto Range (bps)  
Start: 80 End: 505

Peak Detection Threshold: ?

Min Intensity: 30 Max Intensity: 32500

Percentage > 20 Global Max

Note: Use Panel Editor to set Min Intensity and % Global Max for peaks within Markers

Save Delete << Back Next >> Cancel



**Run Wizard** Additional Settings - HID Analysis  
Set additional options related to the different analysis type

Allelic Ladder: NONE  
Positive Control Template: NONE

Allele Evaluation  
Peak Score:  
Reject < 0.00 Check 0.00 < Pass

Mixture Evaluation  
Valid Mixture Peak Percentage: 0 %  
Min Mixture Marker Number: 3

Auto Select Best Ladder  
Allow Match # Variance: 2  
Max Average Size Diff: 0.40  
Use Ladder Library  
Min Heterozygosity: 0.00

Auto Panel Adjustment

Save Delete << Back Ok Cancel

## Analysis settings: RapidINTEL™ sample cartridges

**Run Wizard** Template Selection  
Set the template of the project

Select an existing template or create one

- GlobalFiler
- Identifiler
- Minifiler
- PowerPlexFusion\_6C
- PowerPlexY23
- PowerPlex\_16
- PowerPlex\_18D
- PowerPlex\_21
- PowerPlex\_FST 17

Use last template

Template Name: LastTemplate  
Panel: globalfiler DXI  
Size Standard: DY632PLUS\_V3  
Standard Color: Orange

Save Delete << Back Next >> Cancel



Run Wizard

### Data Process - HID Analysis

Set data process options

**Raw Data Analysis**

Auto Range (frame)  
 Start: 0 End: 10000

Smooth  Enhanced Smooth

Baseline Subtraction:  
 Superior  Classic  Enhanced

Pull-up Correction  Spike Removal  
 Saturation Detection  Saturation Repair

**Size Call**  
 Local Southern  Cubic Spline  
 Size Std Filter

**Allele Call**

Auto Range (bps)  
 Start: 80 End: 505

Peak Detection Threshold: ?  
 Min Intensity: 30 Max Intensity: 32500  
 Percentage > 21 Global Max

Note: Use Panel Editor to set Min Intensity and % Global Max for peaks within Markers

Save Delete << Back Next >> Cancel

**Note:** The screen above shows the **Global Max Percentage** for samples. For the RapidINTEL™ positive control, the setting is <30% .

Run Wizard

### Additional Settings - HID Analysis

Set additional options related to the different analysis type

Allelic Ladder: NONE

Positive Control Template: NONE

**Allele Evaluation**  
 Peak Score:  
 Reject < 0.00 Check 0.00 < Pass

**Mixture Evaluation**  
 Valid Mixture Peak Percentage: 0 %  
 Min Mixture Marker Number: 3

**Auto Select Best Ladder**  
 Allow Match # Variance: 2  
 Max Average Size Diff: 0.40

Use Ladder Library  
 Min Heterozygosity: 0.00

**Auto Panel Adjustment**

Save Delete << Back Ok Cancel



## Analysis settings: NGM SElect™ Express sample cartridges

Run Wizard

### Template Selection

Set the template of the project

Select an existing template or create one

- GlobalFile
- Identifier
- Minifiler
- PowerPlexFusion\_6C
- PowerPlexY23
- PowerPlex\_16
- PowerPlex\_18D
- PowerPlex\_21
- PowerPlex\_FST\_17

Use last template

Template Name:

Panel:

Size Standard:

Standard Color:

Run Wizard

### Data Process - HID Analysis

Set data process options

**Raw Data Analysis**

Auto Range (frame)  
Start:  End:

Smooth  Enhanced Smooth

Baseline Subtraction:  
 Superior  Classic  Enhanced  
 Pull-up Correction  Spike Removal  
 Saturation Detection  Saturation Repair

**Size Call**  
 Local Southern  Cubic Spline  
 Size Std Filter

**Allele Call**

Auto Range (bps)  
Start:  End:

Peak Detection Threshold:

Min Intensity:  Max Intensity:

Percentage >  Global Max

Note: Use Panel Editor to set Min Intensity and % Global Max for peaks within Markers



Run Wizard ✕

### Additional Settings - HID Analysis

Set additional options related to the different analysis type

Allelic Ladder:

Positive Control Template:

Allele Evaluation

Peak Score:

Reject <  Check:  < Pass

Mixture Evaluation

Valid Mixture Peak Percentage:  %

Min Mixture Marker Number:

Auto Select Best Ladder

Allow Match # Variance:

Max Average Size Diff:

Use Ladder Library

Min Heterozygosity:

Auto Panel Adjustment



# Validation of the Systematic Allelic Ladder Library (ACE NGM sample cartridges only)

- Background ..... 62
- About the Systematic Allelic Ladder Library ..... 63
- Study overview ..... 65
- Concordance ..... 65
- Accuracy ..... 67
- Absolute size difference ..... 68
- Conclusion ..... 68

## Background

The size of a sample peak is calculated based on its relation to peaks in a co-migrating size standard. After sizing, the sample peak is assigned an allelic designation by matching the sample peak to a similarly sized allelic-ladder-derived bin. The migration of sample and allelic ladder peaks depends on electrophoresis conditions such as run temperature and gel polymer age, which can result in peak migration differences from run-to-run. If the migration difference between sample peaks and corresponding allelic ladder peaks is too large, allele matching can result in off-ladder (OL) or out-of-bin (OB) calls.

When using a multi-capillary system, it is possible to run allelic ladder and samples simultaneously to reduce run-to-run migration variation for proper sample genotyping. The RapidHIT™ ID System, a single-capillary system, cannot run an allelic ladder alongside the sample in an injection. Therefore, the use of an Empirical Allelic Ladder Library that contains various ladders run under different migration conditions was applied to address variation.

## About the Systematic Allelic Ladder Library

The Systematic Allelic Ladder Library model was introduced for the RapidHIT™ ACE NGM SElect™ Express Sample Cartridge to improve genotyping accuracy and reproducibility (RapidHIT™ ID System v1.2.1). The model predicts the behavior of allelic ladders run under various electrophoretic conditions and is based on characterized differences for each ladder allele as a function of temperature and gel age. The Systematic Allelic Ladder Library enables the instrument software to predict the sizing of a ladder at any combination of the two run conditions.

We evaluated an expansive dataset to validate the Systematic Allelic Ladder Library model. The dataset consisted of the following:

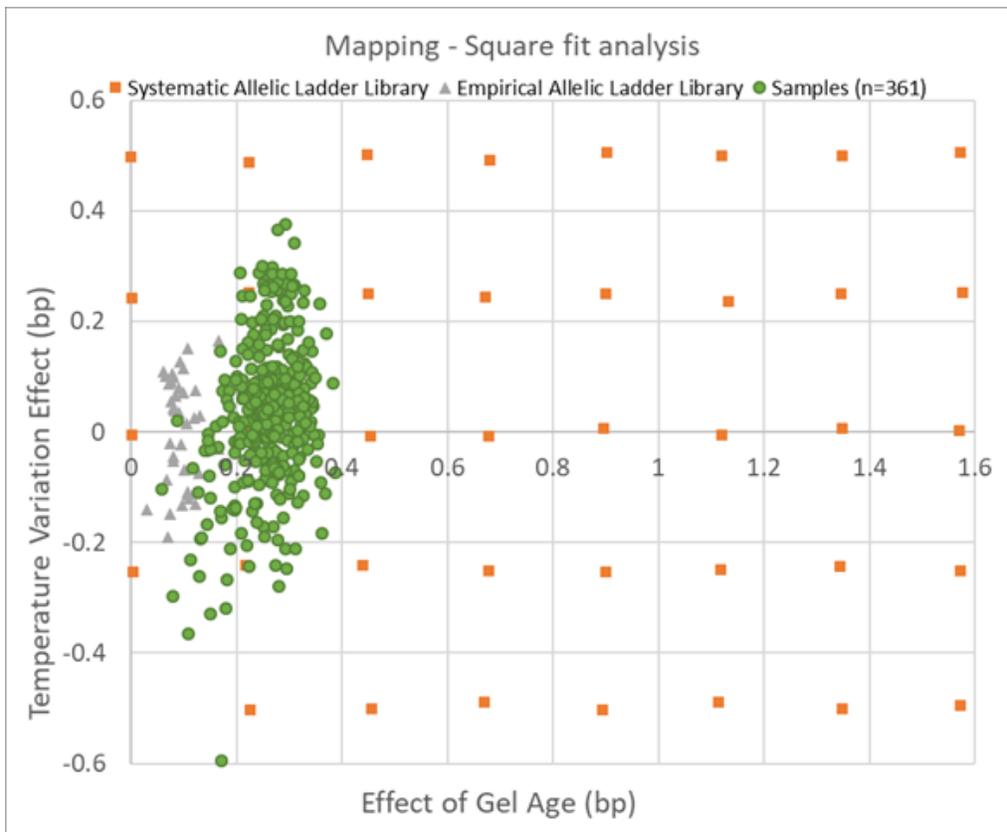
- >2,000 RapidHIT™ ACE NGM SElect™ Express Sample Cartridge runs
- >3,500 RapidHIT™ ACE GlobalFiler™ Express Sample Cartridge runs (data not shown)
- Allelic ladders and samples run across the recommended temperature range and gel lifespan

---

**Note:** Although the RapidHIT™ ACE GlobalFiler™ Express Sample Cartridge was used for validation of the function, the Systematic Allelic Ladder Library is supported for the RapidHIT™ ACE NGM SElect™ Express Sample Cartridge only.

---

Our evaluation of the model confirmed that environmental temperature and gel age were the two variables that most significantly affect sizing on the RapidHIT™ ID System. From the model, the Systematic Allelic Ladder Library was developed to represent prescribed combinations of temperature and gel age, resulting in a more robust genotyping solution, as shown in Figure 7.



**Figure 7** Square fit analysis

The square fit analysis shows the position of the allelic ladder library and samples from the RapidHIT™ ID System v1.2 RapidHIT™ ACE NGM SElect™ Express validation, relative to the empirical and systematic allelic ladder libraries.

## Study overview

The performance of the Systematic Allelic Ladder Library was assessed for concordance and accuracy by re-analyzing the 361 runs from the original RapidHIT™ ACE NGM SElect™ Express Sample Cartridge validation for the RapidHIT™ ID System v1.2, without changing any other analysis parameters. See Table 8.

**Table 8 Samples and positive controls re-analyzed during the Systematic Allelic Ladder Library validation**

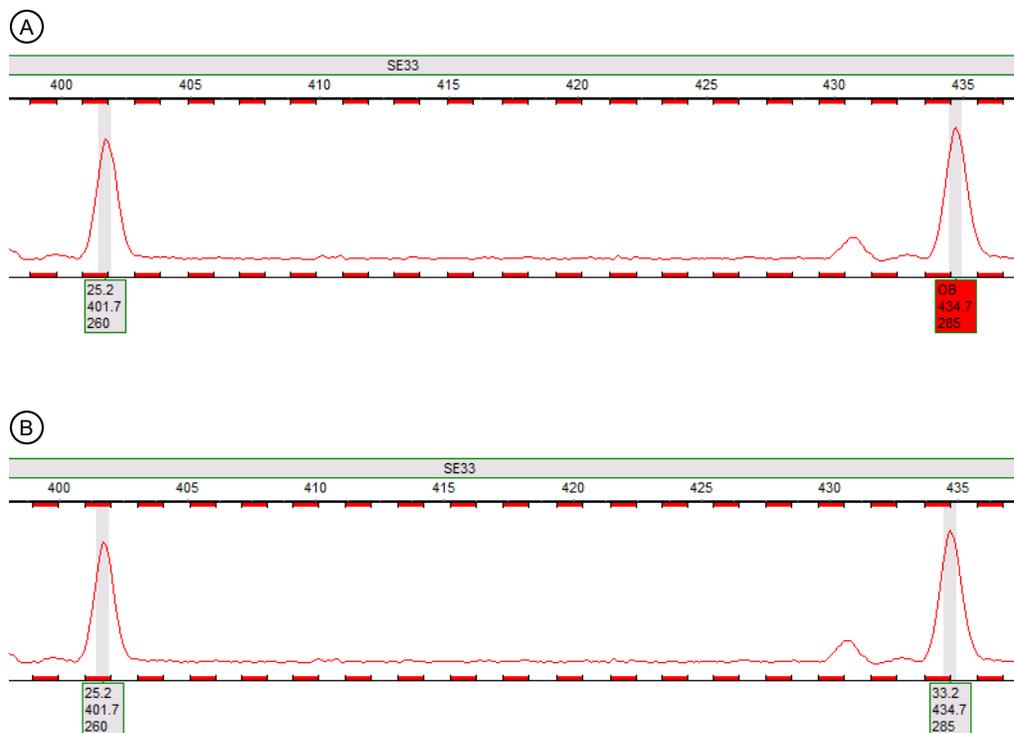
Study name	Number of RapidHIT™ ID ACE NGM SElect™ Express cartridges	
	Sample cartridges	Positive control cartridges
Accuracy	—	25
Sample Concordance	246	—
Sensitivity	43 <sup>[1]</sup>	—
Inhibition	30	—
Mixtures	18	—

<sup>[1]</sup> One sample failed, resulting in 42 profiles generated for the sensitivity study.

## Concordance

Concordance was evaluated using expected sample genotypes from previous 3130xI Genetic Analyzer or 3500xL Genetic Analyzer runs. These genotypes were compared to the data obtained using the original (RapidHIT™ ID System v1.2) and re-analyzed (RapidHIT™ ID System v1.2.1) NGM SElect™ Express data set.

Analysis using the Systematic Allelic Ladder Library resulted in 100% concordance for the expected genotypes. Additionally, the sample profile shown in Figure 8 genotyped correctly without the need for manual ladder substitution. In the initial RapidHIT™ ID ACE NGM SElect™ Express Sample Cartridge validation for RapidHIT™ ID System v1.2, this sample required manual allelic ladder selection to resolve an out-of-bin (OB) allele designation (Figure 8, pane A). The ladder selection process in RapidHIT™ ID System v1.2.1, using the Systematic Allelic Ladder Library, resulted in the previous OB allele designation being assigned the concordant allele call (Figure 8, pane B).



**Figure 8 Concordance**

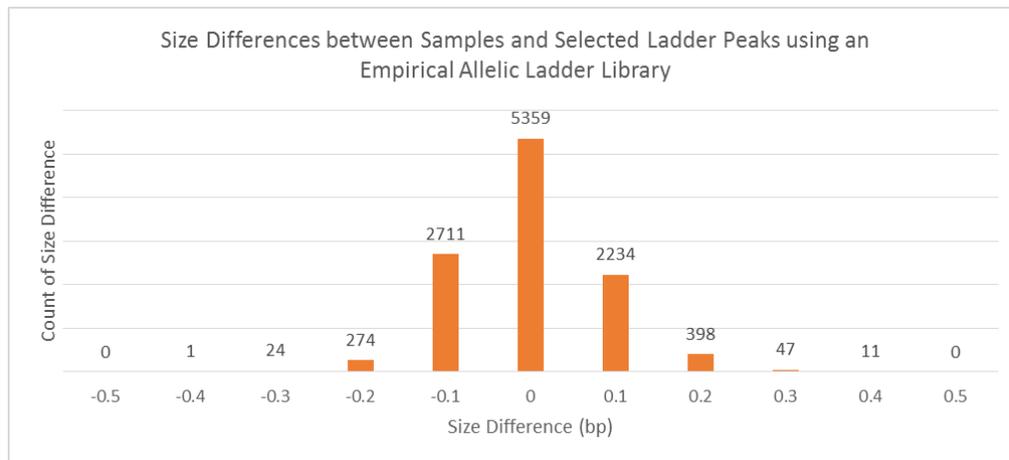
The sample profile analyzed with the existing Allelic Ladder Library (pane A) indicated the presence of an OB allele at the SE33 locus. When the profile was reanalyzed using the Systematic Allelic Ladder Library (pane B), the OB resolved to the concordant allele designation.

## Accuracy

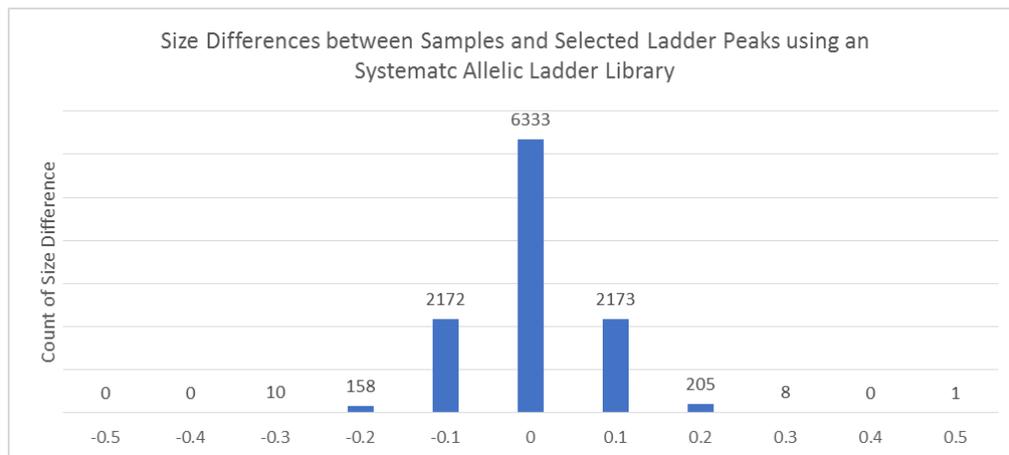
To evaluate for accuracy, the performance of the Systematic Allelic Ladder Library in RapidHIT™ ID System v1.2.1 was compared to the performance of the Empirical Allelic Ladder Library in RapidHIT™ ID System v1.2. For the comparison, each allele designation in the 361 validation samples was evaluated. The alleles were measured for size differences between the sample and allelic ladders from the libraries. The smaller the difference between the observed allele size in the sample and the allele from the selected ladder indicates a closer match.

Figure 9 shows that the Systematic Allelic Ladder Library analysis (pane B) resulted in a tighter match between the sample and selected ladder peaks when compared to the Empirical Allelic Ladder Library (pane A). A normal distribution of the data points was observed. The size differences observed between the libraries is statistically significant, showing a relevant improvement in sizing when using the Systematic Allelic Ladder Library.

(A)



(B)



**Figure 9 Accuracy**

Histograms of size differences observed between the samples and ladder peaks for an empirical allelic ladder library (pane A) and the systematic allelic ladder library (pane B) from RapidHIT™ ACE NGM SElect™ Express validation.

## Absolute size difference

Because allelic ladder selection is performed on a per-sample basis, the aggregate size difference between sample peaks and selected allelic ladder peaks was another method used to compare performance. For each ladder library, the total size difference between sample peaks and selected allelic ladder peaks was calculated on a per-sample basis. Because concordance was already assessed, and a normal distribution was confirmed, absolute values of the observed size differences were used for this comparison.

Figure 10 shows the overall trend that allelic ladders selected from the Systematic Allelic Ladder Library in RapidHIT™ ID System v1.2.1 are closer in size to sample allele designations than those ladders selected from the Empirical Allelic Ladder Library in RapidHIT™ ID System v1.2. The smaller the size differences observed, the more robust the genotyping. In all cases, implementing the Systematic Allelic Ladder Library in RapidHIT™ ID System v1.2.1 showed smaller size differences, resulting in more accurate sample genotyping.

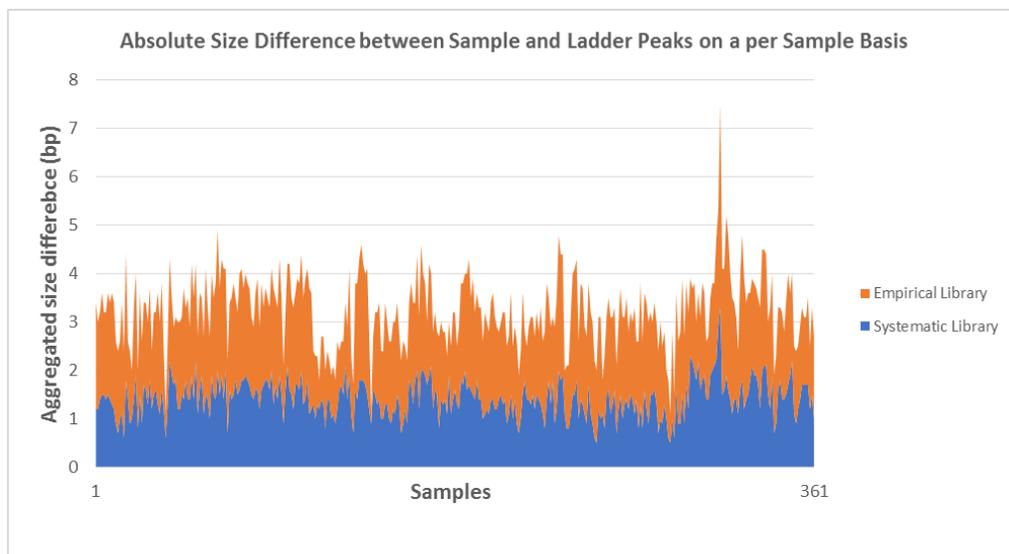


Figure 10 Absolute size difference

Calculated absolute size difference between sample and selected allelic ladder peaks on a per-sample basis for the Empirical Allelic Ladder Library and Systematic Allelic Ladder Library.

## Conclusion

The Systematic Allelic Ladder Library for the ACE NGM SElect™ Express Sample Cartridge successfully demonstrated sample genotype concordance. The performance of the Systematic Allelic Ladder Library improved genotyping accuracy without requiring any changes to other sample analysis parameters.



# Software verification RapidHIT™ ID System v1.3.1

- Objective of the software verification ..... 69
- Studies, standards, and samples ..... 70
- Functionality testing results ..... 71
- Regression testing results ..... 75
- Accuracy testing results ..... 75
- Reliability testing results ..... 77
- Conclusion ..... 78

## Objective of the software verification

The objective of this verification is to ensure that software modifications made in earlier versions of the RapidHIT™ ID System v1.3.1 and RapidLINK™ Software v1.1.5 do not adversely affect performance when using GlobalFiler™ Express, NGM SElect™ Express, and RapidINTEL™ sample cartridges.

Testing was performed according to Quality Assurance Standards (QAS) for DNA Databasing Laboratories (July 1, 2020). Functionality, regression, accuracy, and reliability testing was performed.

Cartridge types are abbreviated as listed below throughout this section.

Type	Abbreviation used in this appendix
RapidHIT™ ID ACE GlobalFiler™ Express	ACE GFE sample, allelic ladder, or control cartridge
RapidINTEL™	AB RI sample or control cartridge (uses ACE GFE allelic ladder)
RapidHIT™ ID ACE NGM SElect™ <i>Express</i>	ACE NGM sample, allelic ladder, or control cartridge



## Studies, standards, and samples

Test Parameter	QAS Reference	Samples
Functionality	8.9.3.1 8.9.3.2	<p>Control, allelic ladder, and sample runs were performed on RapidHIT™ ID v1.3.1 across 2 instruments:</p> <ul style="list-style-type: none"> <li>6 ACE GFE, 6 AB RI, and 6 ACE NGM control cartridges <ul style="list-style-type: none"> <li>3 positive control cartridges (2 passing, 1 failing)</li> <li>3 negative control cartridges (2 passing, 1 failing)</li> </ul> </li> <li>2 ACE GFE and 2 ACE NGM allelic ladder cartridges</li> <li>10 samples for each sample cartridge type: <ul style="list-style-type: none"> <li>ACE GFE and ACE NGM sample cartridges: Buccal samples</li> <li>AB RI sample cartridges: Saliva diluted 1:1 with PBS. 4 µL of the 1:1 dilution was pipetted directly onto the swab and dried before processing.</li> </ul> </li> </ul>
Regression	8.9.3.1 8.9.3.2	<p>20 samples for each sample cartridge type were processed with the RapidHIT™ ID v1.3.1 and earlier versions of the software:</p> <ul style="list-style-type: none"> <li>ACE GFE sample cartridges: 20 buccal reference samples</li> <li>AB RI sample cartridges: 10 blood and 10 saliva samples of varying sample input volumes</li> <li>ACE NGM sample cartridges: 20 buccal reference samples</li> </ul>
Accuracy	8.9.3.2	<p>Control, allelic ladder, and sample runs were performed on RapidHIT™ ID v1.3.1 across 2 instruments:</p> <ul style="list-style-type: none"> <li>2 ACE GFE and 2 ACE NGM positive control cartridges</li> <li>10 samples for each sample cartridge type: <ul style="list-style-type: none"> <li>ACE GFE and ACE NGM sample cartridges: Buccal samples</li> <li>AB RI sample cartridges: Saliva diluted 1:1 with PBS. 4 µL of the 1:1 dilution was pipetted directly onto the swab and dried before processing.</li> </ul> </li> </ul> <p>20 samples for each sample cartridge type were processed with the RapidHIT™ ID v1.3.1 and previous versions of the software:</p> <ul style="list-style-type: none"> <li>ACE GFE sample cartridges: 20 buccal reference samples</li> <li>AB RI sample cartridges: 10 blood and 10 saliva samples of varying sample input volumes</li> <li>ACE NGM sample cartridges: 20 buccal reference samples</li> </ul> <p>All samples from functionality, regression, and reliability studies were evaluated.</p>

(continued)

Test Parameter	QAS Reference	Samples
Reliability	8.9.3.1 8.9.3.2	Sample runs: <ul style="list-style-type: none"> <li>• 8 controls from the functionality study</li> <li>• 10 samples from the functionality study</li> </ul> Data reprocessing runs: <ul style="list-style-type: none"> <li>• 20 passing samples for each sample cartridge type</li> </ul>
Precision	8.9.3.2	Sensitivity and precision studies were not performed during software verification because the changes made to the software do not impact sensitivity and precision of results. Specificity studies were performed during developmental validation of the STR kits. For information see the <i>GlobalFiler™ Express PCR Amplification Kit User Guide</i> (Pub. No. 4477672) and the <i>AmpFℓSTR™ NGM SElect™ Express PCR Amplification Kit User Guide</i> (Pub. No. 4474109).
Sensitivity	8.9.3.2	
Specificity	8.9.3.2	

## Functionality testing results

To confirm that the software performed sample processing and analysis as expected, 104 samples, allelic ladder, and control cartridges were processed with ACE GFE and AB RI consumables and processed on 2 instruments as shown in Table 9.

The RapidLINK™ Software v1.1.5 was used to confirm that each cartridge type was correctly identified, the appropriate run protocol was used, and the applicable data analysis thresholds were applied.

For a description of the flags listed in this section, see the *RapidLINK™ Software v1.1.5 User Guide* (Pub. No. MAN0018939).

### Controls and allelic ladders

To verify that the software correctly identifies a discordant profile for positive controls, 1 ACE GFE, 1AB RI, and 1 ACE NGM positive control swab was replaced with a sample swab to generate an incorrect profile for the positive control. The software reported a failing result  for these three positive controls. One AB RI positive control also generated a failing result  due to allele imbalance (IHE) at the D10S1248 marker. Remaining positive control cartridges reported passing results . One ACE NGM negative control generated a failing result  due to a dye artifact that exceeded the detection threshold.

For negative control testing, a positive control swab was inserted into a negative control cartridge of each cartridge type and processed through at least one instrument. The altered negative controls reported a failing result  due to the presence of DNA. One AB RI negative control also generated an (OB) peak at the D2S441 marker. Remaining negative control cartridges reported passing results .

The four allelic ladder cartridges ran appropriately and reported passing results  on two different instruments.

---

**Note:** The ACE GFE allelic ladder is used to genotype ACE GFE and AB RI samples.

---

## Samples

The 10 ACE GFE sample cartridges met the defined thresholds and produced  results. Some AB RI sample cartridges produced  results. These samples were evaluated in the RapidLINK™ Software v1.1.5. The following flags were observed and were appropriately triggered based on the data and analysis parameters: IHE, OB, IMB and IHO. All samples resulted in concordant genotype results as compared to known reference data.

**Table 9** Runs performed to evaluate the functionality of the RapidHIT ID v1.3.1 system with samples and controls using ACE GlobalFiler Express and RapidINTEL sample and control cartridges.

Sample number	Cartridge type	RHID-1 result	RHID-2 result	Details If flag(s) are present, indicated by instrument: Marker (Flag)
1	ACE GFE sample			—
2				—
3				—
4				—
5				—
6				—
7				—
8				—
9				—
10				—
11	ACE GFE positive control			—
12				—
13				RHID-1 & RHID-2: Control swab was removed and replaced with sample swab
14	ACE GFE negative control			—
15				—
16				RHID-1 & RHID-2: Positive control swab processed in cartridge
17	ACE GFE allelic ladder			—
18				—
19	AB RI positive control			RHID-2: D10S1248 (IHE)
20				—

**Table 9** Runs performed to evaluate the functionality of the RapidHIT ID v1.3.1 system with samples and controls using ACE GlobalFiler Express and RapidINTEL sample and control cartridges. (continued)

Sample number	Cartridge type	RHID-1 result	RHID-2 result	Details If flag(s) are present, indicated by instrument: Marker (Flag)
21	AB RI positive control			RHID-1: Control swab was removed and replaced with sample swab
22	AB RI negative control			—
23				RHID-1: D2S441 (OB) peak called at 97.5 bp
24				RHID-2: Positive control swab processed in cartridge
25	AB RI saliva sample			RHID-2: D10S1248 (IHE)
26				RHID-1: Female sample, Y indel (OB) pull-up called
27				RHID-1: Female sample, Y indel (OB) pull-up called RHID-2: D10S1248 (IHE)
28				RHID-1: AMEL (IHO), D8S1179 (IMB/IHE), D10S1248 (IHE)
29				RHID-1: D3S1358 (IHO), TPOX (IHE), AMEL (IHO), D8S1179 (IHE), D19S433 (IHE), D5S818 (IHE/IMB), D7S820 (IMB), D10S1248 (IHE/IMB), D1S1656 (IHE), D12S391 (IHE), D2S1338 (IMB/IHE)
30				RHID-1: Female sample, Y-indel 89.2 bp peak
31				RHID-1: Female sample, Y-indel 89.2 bp peak
32				RHID-1: AMEL (IHO), D10S1248 (IHE) RHID-2: Female sample, Y-indel (OB) pull up, D8S1179 (IMB), D12S391 (IMB)
33				RHID-2: Female sample, DYS391 (OB) pull-up
34				RHID-1: Female sample, Y-indel 89.2 bp peak
35	ACE NGM allelic ladder			—
36				—
37	ACE NGM positive control			—
38				—



**Table 9** Runs performed to evaluate the functionality of the RapidHIT ID v1.3.1 system with samples and controls using ACE GlobalFiler Express and RapidINTEL sample and control cartridges. *(continued)*

Sample number	Cartridge type	RHID-1 result	RHID-2 result	Details If flag(s) are present, indicated by instrument: Marker (Flag)
39	ACE NGM positive control			RHID-1 and RHID-2: Control swab was removed and replaced with sample swab
40	ACE NGM negative control			—
41				—
42				RHID-1: Positive control swab processed in cartridge RHID-2: D10S1248 80 bp dye artifact peak
43	ACE NGM sample			—
44				—
45				RHID-1: D22S1045 (OB) pull up
46				RHID-1 and RHID-2: FGA (OB) microvariant concordant with known reference
47				—
48				RHID-1 and RHID-2: AMEL 99.9 bp peak
49				—
50				—
51				RHID-2: SE33 (OB) 322.1 bp spike
52				—

## Regression testing results

Regression testing was performed to confirm that the software changes made in RapidHIT™ ID System v1.3.1 do not impact the software functionality. Twenty passing samples were selected to evaluate performance. The samples were processed with the original version of software with which the cartridges were released (v1.3 for ACE GFE, v1.1.3 for AB RI, and v1.2 for ACE NGM) and the same data set was re-processed in RapidHIT™ ID System v1.3.1.

The results from all samples were concordant for allele call, peak height, and bp size between the software versions (Table 10).

**Table 10** Allele call, peak height, and bp size concordance evaluated for 20 samples per sample cartridge type in previous and updated software versions.

Sample cartridge type	Previous software version	Allele call, peak height, and size concordance to v1.3.1
ACE GFE	v1.3	100%
AB RI	v1.1.3	100%
ACE NGM	v1.2	100%

## Accuracy testing results

Sizing accuracy was measured by calculating the difference, in base pair, of each sample allele as compared to the equivalent allelic ladder allele.

### Sample runs

Each allele in the samples were evaluated for precision. Samples that did not generate data, such as negative controls and modified (swab removed) positive controls, were not included.

The size difference between a sample allele and associated ladder allele were evaluated as shown in Figure 11 for ACE GFE and Figure 12 for AB RI. As shown, the maximum difference for each allele as compared to the allelic ladder is at or below 0.3 bp for all samples and controls tested with RapidHIT™ ID System v1.3.1. (Size differences less than 0.4 bp promote accurate genotyping.)

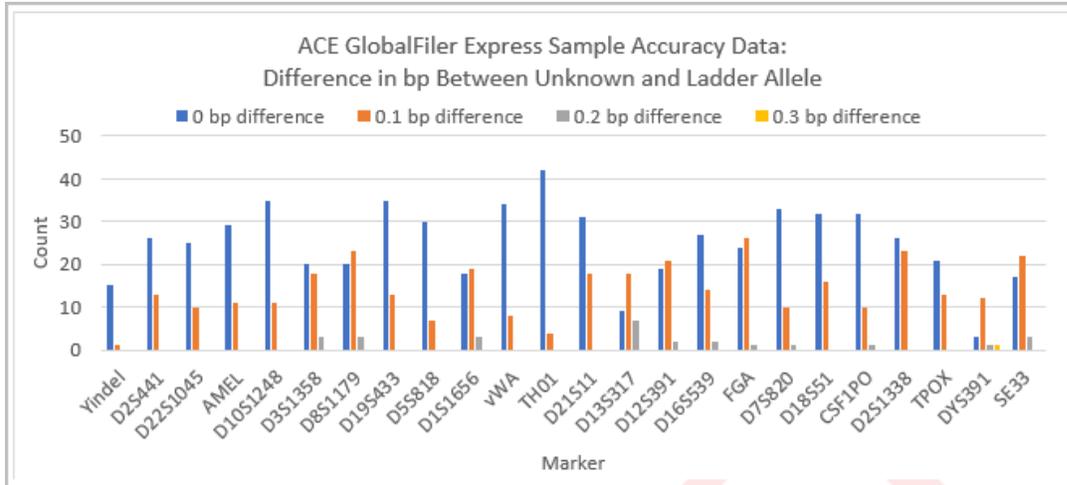


Figure 11 Samples and positive controls processed with ACE GFE cartridges across two RapidHIT ID instruments. The size difference in bp is shown per marker running from the smallest to largest markers (bp).

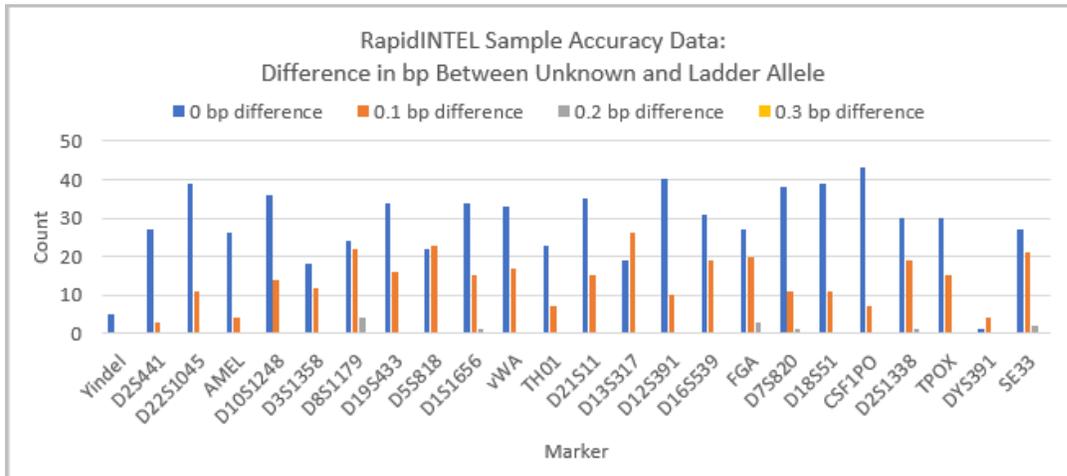


Figure 12 Samples and positive controls processed with AB RI cartridges across two RapidHIT ID instruments. The size difference in bp is shown per marker running from the smallest to largest markers (bp).

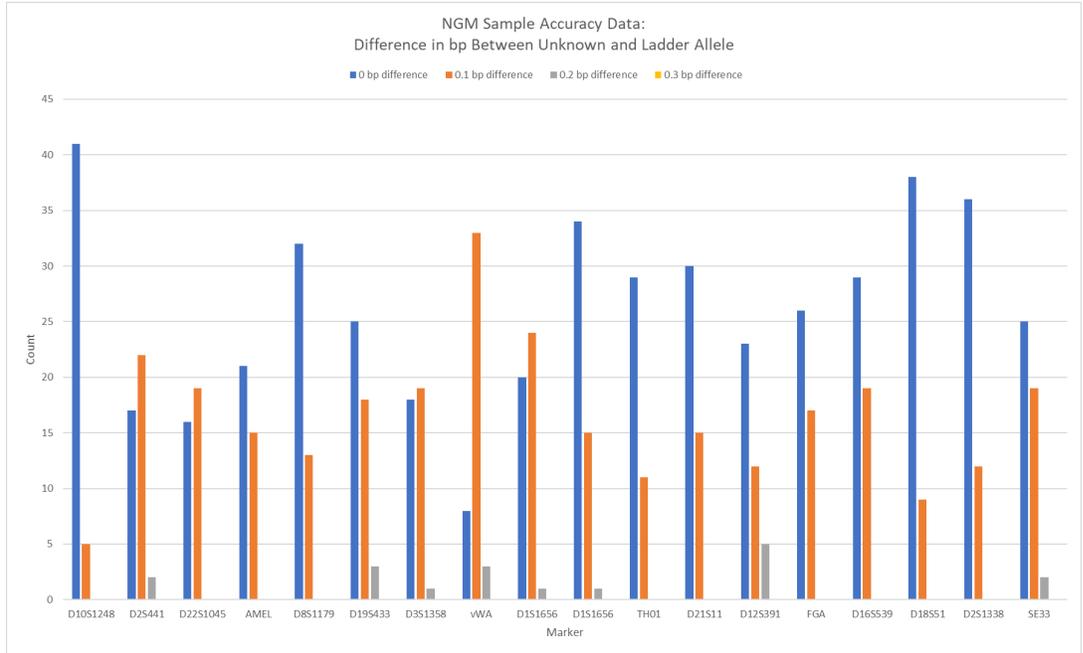


Figure 13 Samples and allelic ladders processed with NGM cartridges across two RapidHIT ID instruments. The size difference in bp is shown per marker running from the smallest to largest markers (bp).

### Data reprocessing

The regression test data was evaluated for accuracy. The results show that the sizing accuracy was not impacted by the software modification.

## Reliability testing results

To evaluate the software performance within and beyond functional aspects, a variety of user scenarios were tested as presented in Table 11. Functional and non-functional tasks from instrument login through secondary software integration performed as expected.

Table 11 Test cases to evaluate the reliability of the RapidHIT ID v1.3.1 system. Functional and non-functional testing evaluated critical aspects of software performance.

Category	Test	Performed as Expected (Y/N)
Installation	User can install and/or upgrade: <ul style="list-style-type: none"> <li>RapidHIT™ ID System v1.3.1</li> <li>RapidLINK™ Software v1.1.5</li> </ul>	Y
Instrument sign in	<ul style="list-style-type: none"> <li>Fingerprint authentication works properly.</li> <li>A user cannot access the instrument without at least one form of authentication.</li> </ul>	Y

**Table 11 Test cases to evaluate the reliability of the RapidHIT ID v1.3.1 system. Functional and non-functional testing evaluated critical aspects of software performance. (continued)**

Category	Test	Performed as Expected (Y/N)
Run	<ul style="list-style-type: none"> <li>• If disk space is not available on the instrument to store data from the run, an error message is displayed.</li> <li>• Samples generate , , or  result as expected when a run is complete.</li> <li>• A sample ID must be scanned or entered before a sample cartridge run can be started (not applicable for allelic ladder and control cartridges).</li> </ul>	Y
Functional testing (2 RapidHIT ID instruments)	<p>The following functions were evaluated to ensure that software changes did not affect functionality:</p> <ul style="list-style-type: none"> <li>• Instrument settings</li> <li>• Operator, Supervisor, and Admin roles allow access to the expected functions</li> </ul>	Y
Functional testing RapidLINK™ Software testing (1 per RapidHIT ID instrument)	<p>The following functions were evaluated to ensure that software changes did not affect functionality:</p> <ul style="list-style-type: none"> <li>• Authorization of a user to access an instrument</li> <li>• Consumables chart</li> <li>• Run reports</li> <li>• Reports to PDF or CSV format</li> <li>• Table and button functionalities are consistent across the software</li> <li>• Allele edits made in the GeneMarker™ HID STR Human Identity Software are saved and reflected in the RapidLINK™ Software</li> </ul>	Y

## Conclusion

Software modifications made in earlier versions of the RapidHIT™ ID System v1.3.1 and RapidLINK™ Software v1.1.5 do not adversely affect performance when using GlobalFiler™ Express, NGM Select™ Express, and RapidINTEL™ sample cartridges. The new versions of software maintain the functionality, accuracy, and reliability of previous versions.



**WARNING! GENERAL SAFETY.** Using this product in a manner not specified in the user documentation may result in personal injury or damage to the instrument or device. Ensure that anyone using this product has received instructions in general safety practices for laboratories and the safety information provided in this document.

- Before using an instrument or device, read and understand the safety information provided in the user documentation provided by the manufacturer of the instrument or device.
- Before handling chemicals, read and understand all applicable Safety Data Sheets (SDSs) and use appropriate personal protective equipment (gloves, gowns, eye protection, and so on). To obtain SDSs, see the “Documentation and Support” section in this document.

## Symbols on this instrument

Symbols may be found on the instrument to warn against potential hazards or convey important safety information. In this document, the hazard symbol is used along with one of the following user attention words.

- **CAUTION!**—Indicates a potentially hazardous situation that, if not avoided, may result in minor or moderate injury. It may also be used to alert against unsafe practices.
- **WARNING!**—Indicates a potentially hazardous situation that, if not avoided, could result in death or serious injury.
- **DANGER!**—Indicates an imminently hazardous situation that, if not avoided, will result in death or serious injury.

## Standard safety symbols

Symbol and description	
	<b>CAUTION!</b> Risk of danger. Consult the manual for further safety information.

## Location of safety labels

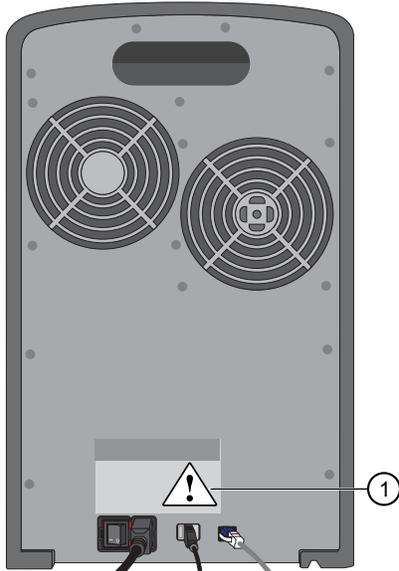


Figure 14 Rear panel

 <sup>1</sup> **CAUTION!** Risk of danger. Consult the manual for further safety information.

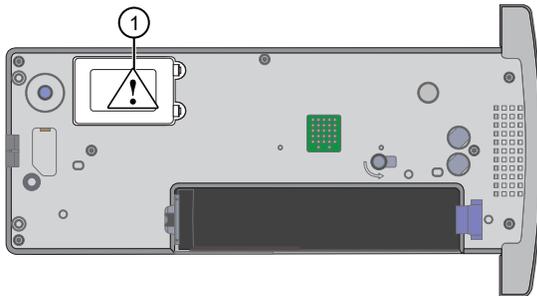


Figure 15 Primary cartridge

 <sup>1</sup> **CAUTION!** The capillary is fragile. Handle the primary cartridge with care after you remove the capillary cover.

## Control and connection symbols

Symbols and descriptions	
	On (Power)
	Off (Power)
	Earth (ground) terminal

(continued)

Symbols and descriptions	
	Protective conductor terminal (main ground)
	Direct current
	Alternating current
	Both direct and alternating current

## Conformity symbols

Conformity mark	Description
	Indicates conformity with safety requirements for Canada and U.S.A.
	Indicates conformity with European Union requirements.
	Indicates conformity with the WEEE Directive 2012/19/EU.   <b>CAUTION!</b> To minimize negative environmental impact from disposal of electronic waste, do not dispose of electronic waste in unsorted municipal waste. Follow local municipal waste ordinances for proper disposal provision and contact customer service for information about responsible disposal options.



# Safety information for instruments not manufactured by Thermo Fisher Scientific

Some of the accessories provided as part of the instrument system are not designed or built by Thermo Fisher Scientific. Consult the manufacturer's documentation for the information needed for the safe use of these products.

## Instrument safety

### General



**CAUTION! Do not remove instrument protective covers.** If you remove the protective instrument panels or disable interlock devices, you may be exposed to serious hazards including, but not limited to, severe electrical shock, laser exposure, crushing, or chemical exposure.

### Physical injury



**CAUTION! Moving Parts.** Moving parts can crush, pinch and cut. Keep hands clear of moving parts while operating the instrument. Disconnect power before servicing.

### Electrical safety



**WARNING! Ensure appropriate electrical supply.** For safe operation of the instrument:

- Plug the system into a properly grounded receptacle with adequate current capacity.
- Ensure the electrical supply is of suitable voltage.
- Never operate the instrument with the ground disconnected. Grounding continuity is required for safe operation of the instrument.



**WARNING! Power Supply Line Cords.** Use properly configured and approved line cords for the power supply in your facility.



**WARNING! Disconnecting Power.** To fully disconnect power either detach or unplug the power cord, positioning the instrument such that the power cord is accessible.

## Cleaning and decontamination



**CAUTION! Cleaning and Decontamination.** Use only the cleaning and decontamination methods specified in the manufacturer's user documentation. It is the responsibility of the operator (or other responsible person) to ensure the following requirements are met:

- No decontamination or cleaning agents are used that could cause a HAZARD as a result of a reaction with parts of the equipment or with material contained in the equipment.
- The instrument is properly decontaminated a) if hazardous material is spilled onto or into the equipment, and/or b) prior to having the instrument serviced at your facility or sending the instrument for repair, maintenance, trade-in, disposal, or termination of a loan (decontamination forms may be requested from customer service).
- Before using any cleaning or decontamination methods (except those recommended by the manufacturer), users should confirm with the manufacturer that the proposed method will not damage the equipment.

## Instrument component and accessory disposal

To minimize negative environmental impact from disposal of electronic waste, do not dispose of electronic waste in unsorted municipal waste. Follow local municipal waste ordinances for proper disposal provision and contact customer service for information about responsible disposal options.

## Laser safety



**WARNING! LASER HAZARD.** Under normal operating conditions, the RapidHIT™ ID Instrument is categorized as a Class 1 laser product. However, removing the protective covers and (when applicable) defeating the interlocks can result in exposure to the internal Class 3Bv laser. Lasers can burn the retina, causing permanent blind spots. To ensure safe laser operation:

- Never look directly into the laser beam.
- Do not remove safety labels, instrument protective panels, or defeat safety interlocks.
- The system must be installed and maintained by a Thermo Fisher Scientific Technical Representative.
- Remove jewelry and other items that can reflect a laser beam into your eyes or the eyes of other people.
- Wear proper eye protection and post a laser warning sign at the entrance to the laboratory if the laser protection is defeated for servicing.
- DO NOT operate the laser when the laser cooling fan is off. When the laser is overheated, it can cause severe burns on contact.

The following table lists laser safety symbols and alerts that may be present on the instrument.

Alert	
	<b>DANGER!</b> Class 3b (III) visible and/or invisible laser radiation present when open and interlocks defeated. Avoid exposure to beam.



## Safety and electromagnetic compatibility (EMC) standards

The instrument design and manufacture complies with the following standards and requirements for safety and electromagnetic compatibility.

### Safety standards

Reference	Description
EU Directive 2014/35/EU	European Union “Low Voltage Directive”
IEC 61010-1 EN 61010-1 UL 61010-1 CAN/CSA C22.2 No. 61010-1	<i>Safety requirements for electrical equipment for measurement, control, and laboratory use – Part 1: General requirements</i>
IEC 61010-2-010 EN 61010-2-010	<i>Safety requirements for electrical equipment for measurement, control and laboratory use – Part 2-010: Particular requirements for laboratory equipment for the heating of materials</i>
IEC 61010-2-081 EN 61010-2-081	<i>Safety requirements for electrical equipment for measurement, control and laboratory use – Part 2-081: Particular requirements for automatic and semi-automatic laboratory equipment for analysis and other purposes</i>

### EMC standards

Reference	Description
EU Directive 2014/30/EU	European Union "EMC Directive"
EN 61326-1 IEC 61326-1	<i>Electrical Equipment for Measurement, Control and Laboratory Use – EMC Requirements – Part 1: General Requirements</i>
FCC Part 15.225 (47 CFR)	<i>Operation within the band 13.110-14.010 MHz.</i>
AS/NZS CISPR 11	<i>Limits and Methods of Measurement of Electromagnetic Disturbance Characteristics of Industrial, Scientific, and Medical (ISM) Radiofrequency Equipment</i>

(continued)

Reference	Description
ICES-001, Issue 4	<i>Industrial, Scientific and Medical (ISM) Radio Frequency Generators</i>
FCC Part 15 Subpart B (47 CFR)	<p><i>U.S. Standard Radio Frequency Devices</i></p> <p>This equipment has been tested and found to comply with the limits for a Class A digital device, pursuant to part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference when the equipment is operated in a commercial environment. This equipment generates, uses, and can radiate radio frequency energy and, if not installed and used in accordance with the instruction manual, may cause harmful interference to radio communications. Operation of this equipment in a residential area is likely to cause harmful interference in which case the user will be required to correct the interference at his own expense.</p>

## Environmental design standards

Reference	Description
Directive 2012/19/EU	European Union "WEEE Directive" – Waste electrical and electronic equipment
Directive 2011/65/EU	European Union "RoHS Directive" – Restriction of hazardous substances in electrical and electronic equipment

## Radio compliance standards

Reference	Description
Directive 2014/53/EU	European Union "RE Directive" – Radio equipment
RFID	<p>FCC Notice (for U.S. Customers):</p> <p>This device complies with Part 15 of the FCC Rules:</p> <p>Operation is subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1. This device may not cause harmful interference, and</li> <li>2. This device must accept any interference received, including interference that may cause undesired operation.</li> </ol> <p>Changes and modifications not expressly approved by Thermo Fisher Scientific can void your authority to operate this equipment under Federal Communications Commissions rules.</p>

(continued)

Reference	Description
RFID	Canada (English) CAN ICES-3(A) / NMB-3(A): This device complies with Industry Canada license-exempt RSS standards. Operation is subject to the following two conditions: (1) this device may not cause interference, and (2) this device must accept any interference, including interference that may cause undesired operation of the device.
RFID	Canada (Français) CAN ICES-3(A) / NMB-3(A): Le présent appareil est conforme aux CNR d'Industrie Canada applicables aux appareils radio exempts de licence. L'exploitation est autorisée aux deux conditions suivantes : (1) l'appareil ne doit pas produire de brouillage, et (2) l'utilisateur de l'appareil doit accepter tout brouillage adioélectrique subi, même si le brouillage est susceptible d'en compromettre le fonctionnement.
Radio regulatory approval information	Singapore—Complies with IMDA Standards DA105282 Japan—Complies with MIC Radio Laws 本装置は、総務省指定第 AC-19117 号の型式指定を受けた誘導式読み書き通信設備を内蔵しています。 This instrument has a built-in the inductive read/write communication equipment specified by the Ministry of Internal Affairs and Communications designated number AC-19117. 

## Chemical safety



**WARNING! GENERAL CHEMICAL HANDLING.** To minimize hazards, ensure laboratory personnel read and practice the general safety guidelines for chemical usage, storage, and waste provided below. Consult the relevant SDS for specific precautions and instructions:

- Read and understand the Safety Data Sheets (SDSs) provided by the chemical manufacturer before you store, handle, or work with any chemicals or hazardous materials. To obtain SDSs, see the “Documentation and Support” section in this document.
- Minimize contact with chemicals. Wear appropriate personal protective equipment when handling chemicals (for example, safety glasses, gloves, or protective clothing).
- Minimize the inhalation of chemicals. Do not leave chemical containers open. Use only with adequate ventilation (for example, fume hood).
- Check regularly for chemical leaks or spills. If a leak or spill occurs, follow the manufacturer's cleanup procedures as recommended in the SDS.
- Handle chemical wastes in a fume hood.
- Ensure use of primary and secondary waste containers. (A primary waste container holds the immediate waste. A secondary container contains spills or leaks from the primary container. Both containers must be compatible with the waste material and meet federal, state, and local requirements for container storage.)
- After emptying a waste container, seal it with the cap provided.
- Characterize (by analysis if necessary) the waste generated by the particular applications, reagents, and substrates used in your laboratory.
- Ensure that the waste is stored, transferred, transported, and disposed of according to all local, state/provincial, and/or national regulations.
- **IMPORTANT!** Radioactive or biohazardous materials may require special handling, and disposal limitations may apply.

## Biological hazard safety



**WARNING! BIOHAZARD.** Biological samples such as tissues, body fluids, infectious agents, and blood of humans and other animals have the potential to transmit infectious diseases. Conduct all work in properly equipped facilities with the appropriate safety equipment (for example, physical containment devices). Safety equipment can also include items for personal protection, such as gloves, coats, gowns, shoe covers, boots, respirators, face shields, safety glasses, or goggles. Individuals should be trained according to applicable regulatory and company/ institution requirements before working with potentially biohazardous materials. Follow all applicable local, state/provincial, and/or national regulations. The following references provide general guidelines when handling biological samples in laboratory environment.

- U.S. Department of Health and Human Services, *Biosafety in Microbiological and Biomedical Laboratories (BMBL)*, 5th Edition, HHS Publication No. (CDC) 21-1112, Revised December 2009; found at:  
<https://www.cdc.gov/labs/pdf/CDC-BiosafetymicrobiologicalBiomedicalLaboratories-2009-P.pdf>
- World Health Organization, *Laboratory Biosafety Manual*, 3rd Edition, WHO/CDS/CSR/LYO/2004.11; found at:  
[www.who.int/csr/resources/publications/biosafety/Biosafety7.pdf](http://www.who.int/csr/resources/publications/biosafety/Biosafety7.pdf)

# Documentation and support

## Related documentation

Document	Publication number
<i>RapidHIT™ ID System v1.3.1 User Guide</i>	MAN0018938
<i>RapidLINK™ Software v1.1.5 User Guide</i>	MAN0018939
<i>RapidINTEL™ Sample Cartridge for Blood and Saliva Samples Validation User Bulletin</i>	MAN0018979
<i>RapidHIT™ ID ACE NGM SElect™ Express Sample Cartridge for RapidHIT™ ID System v1.2 Validation User Bulletin</i>	MAN0018973
<i>Application Note: Bone sample processing on the RapidHIT™ ID system with RapidINTEL™ cartridges</i>	COL33625 0620

## Customer and technical support

For support:

- **In North America**—Send an email to [HIDTechSupport@thermofisher.com](mailto:HIDTechSupport@thermofisher.com), or call **888-821-4443 option 1**.
- **Outside North America**—Contact your local support office.

For the latest services and support information for all locations, go to [thermofisher.com/support](https://thermofisher.com/support) to obtain the following information.

- Worldwide contact telephone numbers
- Product support
- Order and web support
- Safety Data Sheets (SDSs; also known as MSDSs)

Additional product documentation, including user guides and Certificates of Analysis, are available by contacting Customer Support.

## Limited product warranty

Life Technologies Corporation and/or its affiliate(s) warrant their products as set forth in the Life Technologies' General Terms and Conditions of Sale at [www.thermofisher.com/us/en/home/global/terms-and-conditions.html](http://www.thermofisher.com/us/en/home/global/terms-and-conditions.html). If you have any questions, please contact Life Technologies at [www.thermofisher.com/support](http://www.thermofisher.com/support).

# Bibliography

Hennessy LK et al. (2014). *Developmental validation of the GlobalFiler® express kit, a 24-marker STR assay, on the RapidHIT™ System. Forensic Science International: Genetics* (13): 247-258.

Buscaino J et al. (2018) *Evaluation of a rapid DNA process with the RapidHIT™ ID system using a specialized cartridge for extracted and quantified human DNA. Forensic Science International: Genetics* (34): 116-127.

Salceda S et al. (2017) *Validation of a rapid DNA process with the RapidHIT™ ID system using GlobalFiler™ Express chemistry, a platform optimized for decentralized testing environments. Forensic Science International: Genetics* (28): 21-34.

# Index

## A

administrator permissions 31  
allelic ladder cartridge, run 44  
Allelic Ladder Library, Systematic 62  
analysis settings 54

## B

back up 45  
barcode  
    enter 20  
    scanner, optional USB 19  
biohazard safety 88

## C

conformity symbols 81  
control and connection symbols 80  
control cartridge, run 44

## D

date and time 29  
dimensions and clearance 49  
DNA profile, previous run 25, 28  
documentation, related 89  
double sample entry 29

## E

environmental requirements 52  
environmental sensor 9  
error code

## I

Index Term 83  
instrument settings 29  
instrument specifications 49

## L

limited product warranty 90

## N

network configuration and security 11

## O

operator permissions 31

## P

password security 11  
power button, front panel 16  
power requirements 49  
primary cartridge  
    insert 42  
    parts of 37  
    prepare 38  
product description 7

## R

RapidLINK Software connection 29, 46  
recover 45  
related documentation 89  
required materials not supplied 10  
restore 45  
results, previous runs 25, 28  
run 44  
run log 25, 28  
run time 21

## S

safety, biohazard 88  
safety symbols 79  
sample ID, enter 20  
sample identification 19  
sensor, environmental 9  
shipping 45  
sign in 17  
sign out 26  
specifications 49  
supervisor permissions 31  
swab catalog number 10  
symbols

- conformity 81
- control and connection 80
- safety 79
- system specifications 49

## T

- terms and conditions 90
- troubleshooting 46

## U

- user
  - permissions 31
  - roles 31

## V

- Validation, Systematic Allelic Ladder Library 62

## W

- warranty 90
- workflow 12



# RapidINTEL™ Sample Cartridge for blood and saliva samples

RapidHIT™ ID System v1.1.3

Publication Number MAN0018979 Revision A.0

- Overview ..... 2
- Instrument and system background information ..... 2
- Development of RapidINTEL™ system thresholds ..... 6
- Objective of the validation ..... 8
- Materials and methods ..... 9
- Test cases ..... 14
- Results summary ..... 16
- Precision and accuracy results ..... 17
- Genotyping concordance: Concordance, peak height ratio, peak height, color balance, and variation comparisons ..... 18
- Sensitivity results ..... 22
- Mixture results ..... 27
- Mock casework results ..... 33
- Non-allelic peak assessment ..... 38
- Cartridge comparison: ACE GFE cartridge to RapidINTEL™ Sample Cartridge ..... 43
- Conclusions ..... 49
- Appendix A: RapidINTEL™ system threshold development data ..... 50
- Appendix B: References ..... 55
- Appendix C: Cartridge contents and storage ..... 56

## Overview

This user bulletin is for use by customers who are running RapidINTEL™ Sample Cartridges on a RapidHIT™ ID System v1.1.3.

The first version of the system, RapidHIT™ ID System v1.0 with RapidHIT™ ID ACE GlobalFiler™ Express Sample Cartridges (ACE GFE cartridges), is designed for analysis of single-source, buccal reference samples. The system uses single-use sample cartridges for sample introduction, mixing, and PCR.

The RapidINTEL™ Sample Cartridge expands the capability of the system to allow analysis of blood and saliva samples. The RapidINTEL™ Sample Cartridge uses the same GlobalFiler™ Express chemistry as the buccal sample cartridges, with the following enhancements to increase sensitivity:

- PCR cycle number is increased from 28 to 32 PCR cycles
- Lysis buffer volume is decreased from 500 µL to 300 µL

**Note:** Because of the increased sensitivity, DNA profiles from the RapidINTEL™ Sample Cartridges may require more manual review than DNA profiles from the ACE GFE cartridges.

---

**IMPORTANT!** The RapidINTEL™ Sample Cartridge is recommended for use with blood and saliva samples only. Epithelial touch samples were also tested, but successful results were not obtained.

---

The RapidINTEL™ Sample Cartridge runs on the RapidHIT™ ID System v1.1.3.

### Threshold optimization and validation

The studies described in this user bulletin were performed in 2 phases:

- Optimize system threshold settings to address the increased sensitivity of the RapidINTEL™ Sample Cartridge (see “Development of RapidINTEL™ system thresholds” on page 6).
- Perform full validation studies using the optimized threshold settings (see “Objective of the validation” on page 8).

## Instrument and system background information

### Traditional vs. RapidHIT™ ID forensic workflows

In a traditional Applied Biosystems™ forensic workflow, Thermo Fisher Scientific validates an STR kit on a variety of samples. The validation data is provided to customers for reference when they optimize system thresholds for peak detection, genotyping, and quality value flagging.

In the RapidHIT™ ID workflow, Thermo Fisher Scientific optimizes and validates system thresholds on a specific verification sample set, then performs complete validation studies on the verification sample set and a variety of other samples. The customer does not have access to system threshold settings.

## Primary analysis with RapidHIT™ ID

Primary analysis is automatically performed on the RapidHIT™ ID System v1.1.3 by an internal version of the GeneMarker™ HID STR Human Identity Software on the instrument. The software uses system threshold settings to perform the analysis, then the instrument displays a result (Table 1).

System thresholds define criteria such as minimum peak height ratio and stutter filter percentages (for more information, see “Development of RapidINTEL™ system thresholds“ on page 6). If one or more system thresholds are not met:

- One or more internal quality score flags are triggered (see “Quality score flags“ on page 4). These quality score flags are not viewable on the instrument.
- A  result is generated on the instrument. The sample requires manual *secondary analysis* in the RapidLINK™ Software/GeneMarker™ HID software.

**Table 1** Primary analysis results on the RapidHIT™ ID system

Status	DNA profile is generated	Action
Green 	Yes	Green: All peaks and markers in the DNA profile met system threshold criteria.
Yellow 	Yes	Samples only, not positive or negative controls. Yellow: One or more system threshold criteria was not met. An internal quality score flag is triggered (for more information, see “Quality score flags“ on page 4).
Red 	No	Red: The DNA profile was not generated.

**Note:** The Y-markers (Y indel and DYS391) are not considered during primary analysis. They are considered during secondary analysis. Yindel and DYS391 markers are not included in the auto-generated CMF file from the GeneMarker™ HID software. If needed, you can manually generate a CMF file that includes the markers.

## Secondary analysis with RapidLINK™/GeneMarker™ HID software

When primary analysis on the instrument yields a , it indicates that quality score flags are present and the sample requires manual *secondary analysis* in the RapidLINK™ Software.

A  primary analysis result from the instrument is marked with  (requires review) in the RapidLINK™ Software.

When a sample is selected for review in the RapidLINK™ Software, a version of the GeneMarker™ HID STR Human Identity Software opens on the RapidLINK™ Software computer. The DNA profile can be reviewed and edited in the GeneMarker™ HID software. If a sample is determined to be acceptable after review (for example, a single-source sample that was flagged because of a heterozygote peak height imbalance), a CMF file can be manually exported for database searching.

For more information, see *RapidLINK™ Software v1.0 User Guide* (Pub. No. MAN0018038), "Edit allele calls and save changes to the Match database".

**Quality score flags** The RapidHIT™ ID system and the RapidLINK™ Software run an internal version of the GeneMarker™ HID STR Human Identity Software that evaluates DNA profiles. Quality score flags are triggered if peaks do not meet system thresholds. See Table 2.

**Table 2** GeneMarker™ quality score flags

Flag	Name	Description
OL	Off Ladder	<b>Marker</b> indicator: Allele is outside a marker range.
OB	Out of Bin	<b>Bin</b> indicator: Allele is not within a bin in the marker range.
BC	Bin Conflict	<b>Bin</b> indicator: More than 1 allele is within a bin in the marker range.
PL	Ploidy	<b>Mixture</b> indicator: More than the maximum number of expected peaks is detected in a single-source DNA profile or within a marker. The lowest peak at the marker displays the PL flag.  <b>Note:</b> The PL flag does not differentiate between haploid and diploid markers.
IHE	Inconclusive Heterozygous	<b>Heterozygous minimum peak height</b> indicator: Peak intensity is below the heterozygous inconclusive range set for this locus.
IMB	Heterozygote Imbalance	<b>Minimum peak height ratio</b> indicator: Peak intensity does not exceed the minimum percentage of the major peak within the marker.
IHO	Inconclusive Homozygous	<b>Stochastic threshold indicator:</b> Peak intensity is below the homozygous inconclusive range set for this locus.

**Considerations for secondary analysis in the RapidLINK™ Software/ GeneMarker™ HID software**

- The increased sensitivity provided by the RapidINTEL™ Sample Cartridge can exacerbate stochastic effects in low-level samples. Although system thresholds are set to minimize stochastic effects, secondary analysis will be required for more samples than are required for ACE GFE cartridges.
- Evaluate all markers in a sample, do not independently evaluate allele calls for individual markers. A  result from the instrument is generated if *any one* of the system thresholds is not met.
- Because a single marker can prevent a sample from passing primary analysis, a sample could theoretically generate a full genotype and still not pass primary analysis (for example, a marker might contain a slightly elevated stutter peak). To obtain a true evaluation of a system's efficiency, it is important to measure not only the primary analysis pass rate, but also the number of correctly identified peaks/markers that do not trigger quality score flags.
- Because of the GlobalFiler™ Express kit design (more primers at higher molecular weight to compensate for the loss of high-molecular weight fragments in the direct workflow), you may observe a reverse ski-slope pattern across markers in the electropherogram.
- The Y indel and DYS391 markers are not considered during primary analysis on the instrument.

**Note:** The Y indel and DYS391 markers are not included in the CMF file that is auto-generated by the GeneMarker™ HID software and do not affect database searches.

- A locus-specific filter is not applied to the Y indel and DYS391 markers in female samples. Therefore, pull-up artifact peaks may be called. These alleles can be deleted during secondary analysis.

The following interpretation guidelines for difficult samples were defined during validation and were used for secondary analysis of validation data. Use these guidelines as a starting point for your laboratory standard operating procedure.

**Table 3** Guidelines for allele interpretation and database searching that were developed and used during validation

Observation	Action
<p>Inconclusive Heterozygous (IHE) flag is triggered because:</p> <ul style="list-style-type: none"> <li>• One or both peaks in a heterozygous marker are below the minimum heterozygous peak height threshold.</li> <li>• The peak height ratio is less than the minimum peak height ratio threshold.</li> </ul>	Confirm that neither peak is due to a mixture by assessing the profile for presence of a second contributor.
	Confirm that 2 peaks are present at the marker.
	Check for marker drop-out anywhere in the DNA profile.
	<p>Confirm that the average peak height across the profile is approximately <math>\geq 250</math> RFU.</p> <p><b>Note:</b> During validation, stochastic effects were consistently observed at <math>\leq 250</math> RFU in disparate mixture and in some single-source samples.</p>
	Ensure that samples in the stochastic range (<1,600 RFU) have a peak height ratio >30%.
	If all conditions listed above are verified, confirm heterozygous pair.

Observation	Action
A single allele in a marker is below the 1,600 RFU stochastic threshold	A single peak that is below the stochastic threshold may not be a true homozygote. It is more likely a heterozygous allele. Ignore the peak, do not add the allele to the profile. <sup>[1]</sup>
Peaks are below the 50 RFU analytical threshold	Ignore the peaks. Data below the 50 RFU analytical threshold can be baseline noise.
Peaks are below the locus-specific filter (21% for samples)	Ignore the peak, do not add the allele to the profile. <sup>[1]</sup>
Stutter peak exceeds the locus-specific stutter threshold	Delete the peak after confirming it is a stutter peak.

<sup>[1]</sup> Guideline was followed during secondary analysis. Your laboratory standard operating system may differ.

## Development of RapidINTEL™ system thresholds

Specific system thresholds are required to address the increased sensitivity of the RapidINTEL™ Sample Cartridge (which can introduce artifacts such as stutter and allele drop-in, or stochastic effects that occur with amplification of limited DNA amounts).

---

**IMPORTANT!** System thresholds were set so that all questionable peaks/markers are flagged during primary analysis and require secondary analysis by a forensically trained analyst.

---

The system threshold development process included the following steps:

1. Prepare a verification sample set: Process different volumes of blood and saliva from 97 individuals to generate 398 single-source samples (see Table 6 on page 11).
2. Run all samples on 6 RapidHIT™ ID System v1.1.3 (“Instruments and software” on page 9).
3. Establish system thresholds for primary analysis. For more information, see “Development of RapidINTEL™ system thresholds” on page 6 and Table 4.
4. Confirm system thresholds with secondary analysis by reviewing all sample data in the RapidLINK™ Software to:

**Note:** Two forensically trained analysts performed a blind review on the verification sample set. The results for the blind reviews were compared and results were reported only for results upon which both analysts agreed.

- Confirm that all samples that passed primary analysis (✅ result) generated full, high quality DNA profiles
- Review all samples that did not pass primary analysis (⚠️ result) and optimize system thresholds as needed (see Table 4).
- Ensure that mixtures triggered quality score flags (described in “Quality score flags” on page 4).
- Confirm that negative controls fail primary analysis (❌ result) if signal >50 RFU analytical threshold is present.

**Table 4** RapidINTEL™ Sample Cartridge on RapidHIT™ ID System v1.1.3 system thresholds

Thresholds and filters	Setting	Quality score flag that is triggered if the threshold is not met (see “Quality score flags” on page 4)
Analytical threshold	50 RFU	—
Stochastic threshold	1,600 RFU	IHO Inconclusive homozygous
	50 RFU for Y indel and DYS391	
Minimum peak height ratio threshold	40%	IMB Heterozygous imbalance
	99% for Y indel and DYS391 <sup>[1]</sup>	
Minimum heterozygous peak intensity threshold	640 RFU	IHE Inconclusive Heterozygous
Stutter filters	Locus-specific	—
Locus-specific filter	21%	—
	30% for the positive control	
Maximum number of expected peaks in a marker	2	PL Ploidy
Global filter (between loci)	21%	—
	30% for the positive control	
Minimum off-ladder (OL) intensity	30 RFU	OL Off-ladder

<sup>[1]</sup> Minimum peak height ratio for Y markers was set to 99% to flag mixture samples at these hemizygous markers.

For more information on system thresholds, see “Appendix A: RapidINTEL™ system threshold development data” on page 50.

## Objective of the validation

The objective of the validation was to assess the performance of the RapidINTEL™ Sample Cartridges on the RapidHIT™ ID System v1.1.3 when analyzing high quality, single-source blood and saliva samples. The validation was performed according to guidelines from the *Scientific Working Group for DNA Analysis Methods* (SWGDM, December, 2016). The following studies were performed:

- Sizing precision and accuracy
- Genotyping concordance
- Sensitivity
- Contamination
- Mixture
- Mock casework
- Non-allelic peak assessment
- Comparison of primary analysis results for the ACE GFE cartridge and the RapidINTEL™ Sample Cartridge, and evaluation of secondary analysis allele recovery for the RapidINTEL™ Sample Cartridge.

The validation studies assessed:

- Overall performance using the RapidINTEL™ system thresholds.
- Accurate detection and flagging of peaks that do not comply with the RapidINTEL™ system thresholds.
- Ability to detect mixtures and the presence of contamination.
- Primary analysis pass rate (the percentage of samples that meet all system thresholds and generate full, single-source profiles without manual review).
- For samples with  or  results, the number of correctly called peaks/markers that are identified during primary analysis.
- Secondary analysis allele recovery rate (the percentage of markers that can be correctly called with manual review).

In addition, sample input amounts were assessed to determine optimal sample type and amounts that provide accurate results.

## Materials and methods

### Instruments and software

Six RapidHIT™ ID System v1.1.3 instruments were used for validation studies. All instruments were not used in every study; however, each instrument was used in at least one study.

Before validation studies were run, an instrument ladder cartridge and a positive control cartridge were run on all instruments.

Component	Cat. No. or version number
RapidHIT™ ID system	v1.1.3
RapidINTEL™ Sample Cartridge	A43942
RapidLINK™ Software	v1.1.5
GeneMarker™ HID STR Human Identity Software	v2.9.5 (embedded in the RapidLINK™ Software)

### Thermal cycler and injection parameters

Thermal cycler parameters were optimized using a Design of Experiments (DOE) approach that identifies the combination of temperatures and hold times that produce the best assay performance. Optimal assay performance was determined through evaluation of assay sensitivity and peak height balance.

**Table 5** RapidINTEL™ Sample Cartridge thermal cycler conditions (controlled internally by the RapidHIT™ ID System v1.1.3)

Step	Temp (°C)	Time (second)
Activation	95°C	60 seconds
Denaturation	94°C	3 seconds
Annealing	61°C	30 seconds
Extension	61.5°C	30 seconds
Final Extension	60°C	480 seconds
Cycle number	32	

The RapidHIT™ ID System v1.1.3 uses the same injection parameters as RapidHIT™ ID System v1.0 (5 kV 8 s injection).

## Samples and sample collection

Swabbed samples were collected with Puritan™ 3" sterile standard cotton swabs with a semi-flexible polystyrene handle.

The samples were prepared as follows:

- **Verification sample set, sensitivity, and mixture samples**—The referenced volume of blood or saliva (Table 6) was pipetted directly onto the swab and allowed to dry before processing (Figure 3).
- **Mock-casework samples**—
  - Blood and saliva samples were deposited on various substrates, allowed to dry, and then swabbed (Figure 3). Punches were obtained from denim and some cotton samples.
  - Cigarette butt and gum samples were swabbed directly, or were cleaned, handled by a single individual, then swabbed.
  - Hair sample was pulled from the head, inspected for the presence of root, then placed in a sample cartridge.
  - Touch samples were cleaned, handled by a single individual, then swabbed.

A dual wet-swab technique was used for all swabs (Figure 1 A) unless otherwise indicated.

One swab from each collection was added to a RapidINTEL™ Sample Cartridge, then run on a RapidHIT™ ID System v1.1.3. The other swab was used for the cartridge comparison study (see “Cartridge comparison: ACE GFE cartridge to RapidINTEL™ Sample Cartridge” on page 43).

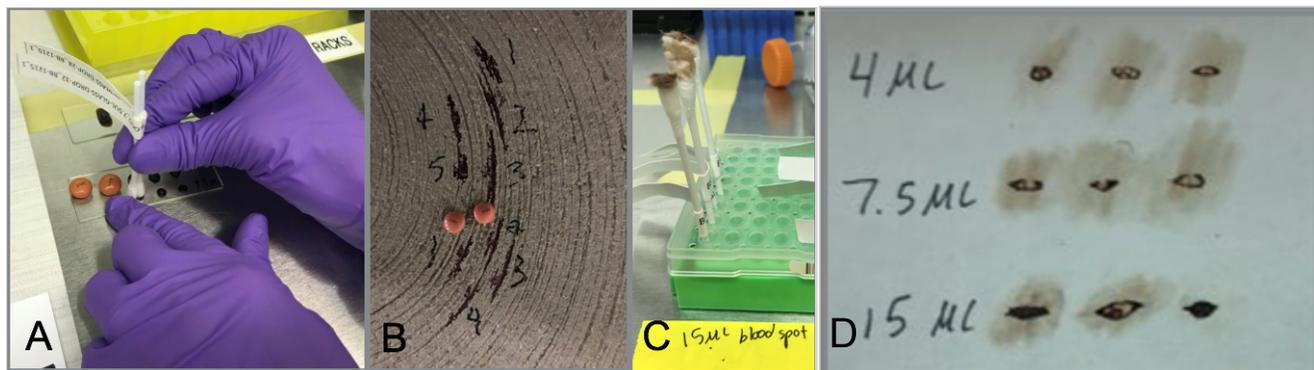


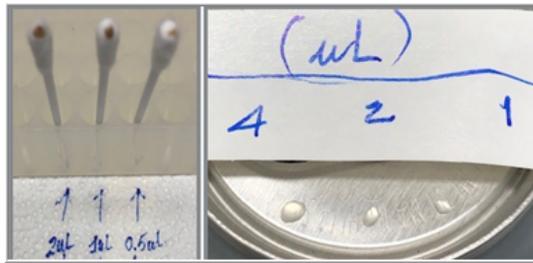
Figure 1 Sample collection examples

- (A) Dual wet-swab technique for collecting blood on glass samples: 2 swabs are held together with swab heads touching, wetted with sterilized de-ionized water, pressed firmly against the sample, then moved in a circular motion for 10–15 seconds to collect the sample.
- (B) 15 µL of blood on a tarred surface (parking lot or road).
- (C) Collection of the blood from the tarred surface caused the cotton to pull away from the tightly wound swab head. When adding a swab with a disrupted head to a sample cartridge, make sure to push the swab into the cartridge until the head is at the bottom of the swab receptacle (Figure 2).
- (D) Blood on drywall after dual wet-swab collection.



**Figure 2** Sample cartridge

① Ensure the swab head is at the bottom of the swab receptacle



**Figure 3** Blood on swabs at 2, 1, and 0.5  $\mu\text{L}$  (left) and saliva on the top of a soda can at 4, 2, and 1  $\mu\text{L}$  (right)

## Verification sample set

The verification sample set included samples from 46 unique blood donors and 51 unique saliva donors with varying sample input. The total number of samples processed was 398.

**Table 6** Verification sample set (n=398)

Blood			Saliva		
Sample	Volume ( $\mu\text{L}$ )	# of replicates per volume	Sample	Volume ( $\mu\text{L}$ )	# of replicates per volume
BB-1055	0.25, 0.5, 1, 2	1	DNR-1	1, 2, 4, 6	1
BB-1063	0.25, 0.5, 1, 2	1	DNR-2	1, 2, 4, 6	1
BB-1069	0.5, 1, 2	1	DNR-3	1, 2, 4, 6	1
BB-1076	0.5, 1, 2	1	DNR-4	1, 2, 4, 6	1
BB-1080	0.25, 0.5, 1, 2, 4	1	DNR-5	1, 2, 4, 6	1
BB-1117	0.25, 0.5, 1, 2, 4	1,2,2,2,1	DNR-6	1, 2, 4, 6	1
BB-1141	0.5, 1, 2, 4	1	DNR-7	1, 2, 4, 6	1

Blood			Saliva		
Sample	Volume (µL)	# of replicates per volume	Sample	Volume (µL)	# of replicates per volume
BB-1144	0.5, 1, 2, 4	1	DNR-8	1, 2, 4, 6	1
BB-1160	0.5, 1, 2, 4	1	DNR-9	1, 2, 4	1
BB-1169	0.5, 1, 2, 4	1	DNR-10	1, 2, 4, 6	1
BB-1180	0.5, 1, 2, 4	1	DNR-11	1, 2, 4, 6	1
BB-1193	0.5, 1, 2, 4	1	DNR-12	1, 2, 4, 6	1
BB-1195	0.5, 1, 2, 4	1	DNR-13	1, 2, 4, 6	1
BB-1196	0.5, 1, 2, 4	1	DNR-14	1, 2, 4, 6	1
BB-1206	0.5, 1, 2	1	DNR-15	1, 2, 4, 6	1
BB-1208	0.5, 1, 2, 4	1	DNR-16	1, 2, 4, 6	1
BB-1215	0.5, 1, 4	1,1,2	DNR-17	1, 2, 4, 6	1
BB-1220	0.5, 1, 2, 4	1	DNR-18	1, 2, 4, 6	1
BB-1222	0.5, 1, 2, 4	1	DNR-19	1, 2, 4	1
BB-1225	0.5, 1, 2, 4	1	DNR-20	1, 2, 4	1
BB-1226	0.5, 1, 2, 4	1	DNR-21	1, 2, 4, 6	1
BB-1230	0.5, 1, 2, 4	1	DNR-22	1, 2, 4, 6	1
BB-1233	0.5, 1, 2, 4	1	DNR-23	1, 2, 4, 6	1
BB-1240	0.5, 1, 2, 4	1	DNR-24	1, 2, 4, 6	1
BB-1247	0.5, 1, 2, 4	1	DNR-25	1, 2, 4, 6	1
HC-1005	0.5, 1, 2, 4	1	DNR-26	1, 2, 4, 6	1
HC-1017	0.5, 1, 2, 4	1	DNR-27	1, 2, 4, 8, 12	1
HC-1032	1, 2, 4	1	DNR-28	1, 2, 4	1
HC-1047	0.5, 1, 2, 4	1	DNR-29	1, 2, 4, 6	1
HC-1049	0.25, 0.5, 1, 2, 4	1,2,2,2,1	DNR-30	1, 2, 4, 6	1
IB-0079	0.25, 0.5, 1, 2, 4	1	DNR-31	1, 2, 4, 6	1
IB-0221	1, 2, 4	2,2,2	DNR-32	1, 2, 4, 6	1
IB-0336	1, 2, 4	2,2,2	DNR-33	1, 2, 4, 6	1
IB-0382	0.5, 1, 2, 4	1	DNR-34	1, 2, 4, 6	1
IB-0506	0.5, 1, 2, 4	1	DNR-35	1, 2, 4, 6	1
IB-0635	0.5, 1, 2, 4	1	DNR-36	1, 2, 4, 6	1

Blood			Saliva		
Sample	Volume (µL)	# of replicates per volume	Sample	Volume (µL)	# of replicates per volume
IB-0663	0.25, 0.5, 1, 2, 4	1	DNR-37	1, 2, 4, 6	1
IB-0666	0.5, 1, 2, 4	1	DNR-38	1, 2, 4, 6	1
IB-0694	0.5, 1, 2, 4	1	DNR-39	1, 2, 4, 6	1
IB-0819	1, 2, 4	1	DNR-40	1, 2, 4, 6	1
IB-0851	0.5, 1, 2, 4	1	DNR-41	2, 4, 6	1
IB-0902	0.25, 0.5, 1, 2, 4	1	DNR-42	1, 2, 4, 6	1
IB-0908	0.25, 0.5, 1, 2, 4	1	DNR-43	1, 2, 4, 6	1
IB-0921	0.25, 0.5, 1, 2, 4	1	DNR-44	1, 2, 4, 6	1
IB-0926	0.25, 0.5, 1, 2, 4	1	DNR-45	1, 2, 4, 6	1
IB-0981	0.5, 1, 2, 4	1	DNR-46	1, 2, 4, 6	1
—	—	—	DNR-47	1, 2, 4, 6	1
—	—	—	DNR-48	1, 2, 4, 6	1
—	—	—	DNR-49	1, 2, 4, 6	1
—	—	—	DNR-50	1, 2, 4, 6	1
—	—	—	DNR-51	1, 2, 4, 6	1

## Test cases

Study	Samples	Total number of samples	Method and analysis
Sizing precision and accuracy	25 allelic ladder cartridges	5 allelic ladder cartridges were run on 5 instruments.	<ul style="list-style-type: none"> <li>Calculated the standard deviation of the size values for each allele in the allelic ladder across 5 instruments.</li> <li>Evaluated the allelic ladder results.</li> </ul>
Genotyping concordance	<ul style="list-style-type: none"> <li>81 positive control cartridges</li> <li>1,216 samples from the population, casework, and mixture studies</li> </ul>	<ul style="list-style-type: none"> <li>81 positive control cartridges were run on 6 instruments.</li> <li>See sensitivity, mixture, and mock casework studies for the number of samples.</li> </ul>	<ul style="list-style-type: none"> <li>Compared sample and control genotypes to previously generated 3500xL results or expected positive control genotype.</li> <li>Evaluated the peak height, peak height ratio, color balance, and signal variation for the positive control data.</li> </ul>
Sensitivity population study 1	<ul style="list-style-type: none"> <li>10 unique blood donors at 4, 2, 1, 0.5, 0.25, 0.125 <math>\mu</math>L, and 0.0625 volumes</li> <li>10 unique saliva donors at 8, 4, 2, 1, 0.5, and 0.25 <math>\mu</math>L volumes</li> </ul>	409 samples were run on 6 instruments: <ul style="list-style-type: none"> <li>201 blood samples</li> <li>208 saliva samples</li> </ul>	Evaluated the primary analysis pass rate.
Sensitivity population study 2	Verification sample set	See Table 6 on page 11.	<ul style="list-style-type: none"> <li>Evaluated the primary analysis pass rate.</li> <li>Evaluated peak height, peak height ratios, and allele drop-out for the verification sample set.</li> <li>Evaluated secondary analysis marker recovery.</li> </ul>
Contamination	42 negative control cartridges	42 negative control cartridges were run on 6 instruments.	<ul style="list-style-type: none"> <li>Ran negative controls after running high-concentration samples.</li> <li>Evaluated peaks above the 50 RFU analytical threshold.</li> </ul>

Study	Samples	Total number of samples	Method and analysis
Mixture	Saliva mixture of 2 donors: 1:0, 1:1, 1:3, 1:8, 8:1, 3:1, 0:1 at 4 µL total volume	44 samples were run on 6 instruments: <ul style="list-style-type: none"> <li>• 2 replicates of 1:0 and 0:1 samples</li> <li>• 8 replicates of other sample ratios</li> </ul>	<ul style="list-style-type: none"> <li>• Evaluated the quality score flagging during primary analysis.</li> <li>• Evaluated the number of unique donor alleles identified during primary analysis.</li> </ul>
	Blood mixture: 1:1 1:2, 1:4, 1:8, 1:16, 16:1, 8:1, 4:1, at 1.5–0.66 µL total volume	80 samples were run on 6 instruments.	
Mock casework	<ul style="list-style-type: none"> <li>• Blood samples from 7 different substrates</li> <li>• Saliva samples from 4 different substrates</li> <li>• Epithelial cell touch samples from 4 different substrates</li> <li>• Pulled hair sample</li> </ul> <p><b>Note:</b> Touch samples were used to test the limitations of the system. Touch samples are not a supported sample type.</p>	121 samples were run on 6 instruments: <ul style="list-style-type: none"> <li>• Blood—69</li> <li>• Saliva—35</li> <li>• Touch—15</li> <li>• Hair—3</li> </ul>	<ul style="list-style-type: none"> <li>• Evaluated primary analysis pass rate by sample and substrate type.</li> <li>• Evaluated secondary analysis marker recovery by sample and substrate type.</li> </ul>
Non-allelic peak assessment	1,216 samples from the population, casework, and mixture studies	See sensitivity, mixture, and mock casework studies for the number of samples.	Evaluated non-allelic peaks, including pull-up and stutter peaks.
Cartridge comparison	<ul style="list-style-type: none"> <li>• Blood mixtures</li> <li>• Mock-casework samples: <ul style="list-style-type: none"> <li>– Blood on glass, drywall, tarred surface (road or parking lot), denim, white cotton</li> <li>– Saliva on cigarette butts</li> <li>– Swabs from gum, coffee cup, and water bottle</li> </ul> </li> </ul>	See mock-casework study and mixture study for the number of samples.	<ul style="list-style-type: none"> <li>• Ran each sample using RapidINTEL™ Sample Cartridges and ACE GFE cartridges.</li> <li>• Evaluated primary analysis pass rate for both cartridges.</li> <li>• Evaluated allele recovery for RapidINTEL™ Sample Cartridges.</li> </ul>

## Results summary

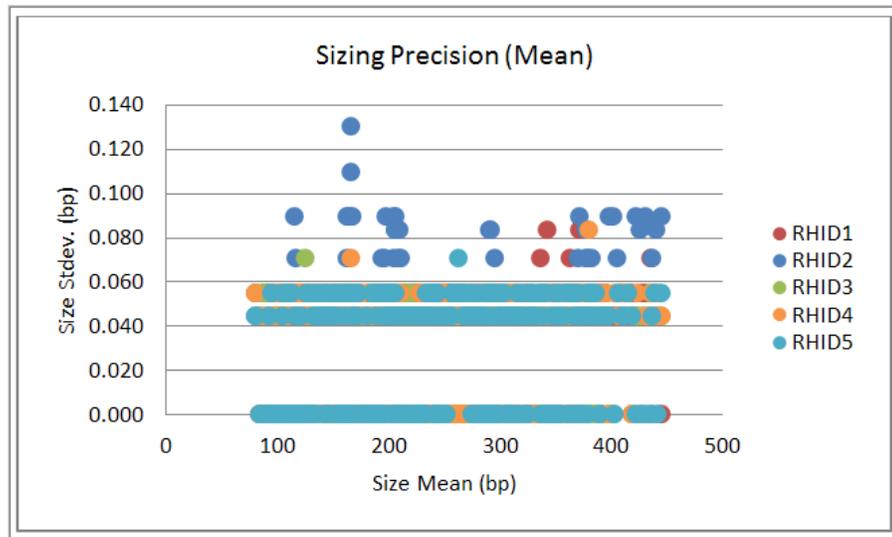
Test case	Result
Sizing precision and accuracy	<ul style="list-style-type: none"> <li>• Sizing precision &lt;0.14 bp.</li> <li>• All allelic ladders passed.</li> </ul>
Genotyping concordance	<ul style="list-style-type: none"> <li>• 79 of 81 positive controls passed primary analysis (✅ result), which means they generated the expected 007 control DNA genotype.</li> <li>• 2 controls failed primary analysis (❌ result).</li> <li>• 99% of sample results (n=1,216) were concordant with data from the 3500xL Genetic Analyzer.</li> </ul>
Sensitivity	<ul style="list-style-type: none"> <li>• Peak heights and peak height ratios generally increased at higher concentrations.</li> <li>• ≥20 correct markers were identified during primary analysis with ≥2 µL of blood per sample.</li> <li>• ≥17 correct markers were identified during primary analysis with ≥6 µL.</li> <li>• 17–18% of markers in the verification sample set that generated quality score flags were recovered during secondary analysis.</li> </ul>
Contamination	<p>2 out of 42 negative controls yielded in-bin peaks above the analytical threshold:</p> <ul style="list-style-type: none"> <li>• 77 RFU (1) peak at Y indel, which was present in the previous sample run.</li> <li>• 65 RFU (13) peak at D8S1179 at a pull-up position of the size standard peak. Did not match the genotype of the previous sample run.</li> </ul>
Mixture	<p>The minor contributor was detected and flagged in:</p> <ul style="list-style-type: none"> <li>• 39 of 40 saliva mixtures</li> <li>• 78 of 80 blood mixtures</li> </ul>
Pull-up	<ul style="list-style-type: none"> <li>• 16 instances of pull-up were detected, 15 of the observed peaks were in the Y indel and DYS391 markers.</li> <li>• The average observed pull-up peak was 4.5% of the parent peak. When the outliers were removed, the average pull-up peak was 1.5%.</li> </ul>
Stutter	<p>37 elevated stutter peaks were observed above the locus-specific stutter thresholds, all of which triggered quality score flags.</p>
Artifact	<p>An n –5 nt artifact peak was intermittently observed at the TH01 locus.</p>
Mock casework	<ul style="list-style-type: none"> <li>• Marker and allele recovery for blood on non-porous substrates was generally better than blood on porous substrates.</li> <li>• 28% of blood, 67% of hair root, 14% of saliva, and 0 touch mock-casework samples generated a ✅ primary analysis result.</li> <li>• Secondary analysis increased marker recovery by 7% for blood, 8% for saliva, and 3% for touch samples.</li> </ul>
Cartridge comparison	<ul style="list-style-type: none"> <li>• <b>Blood and saliva mock casework samples</b>—RapidINTEL™ Sample Cartridges with secondary analysis generate an average of 25% more markers than ACE GFE cartridges.</li> <li>• <b>Blood mixture samples</b>—RapidINTEL™ Sample Cartridges with secondary analysis generate an average of 57% more markers than ACE GFE cartridges.</li> </ul>

## Precision and accuracy results

Sizing precision allows accurate and reliable genotyping. Precision was measured by calculating and plotting the standard deviation of the size values for each allele.

The standard deviations of the size values for 25 allelic ladders run on 5 instruments were all <0.14 bp. This observation confirms the ability of the system to accurately size allele differences of 1 bp across the GlobalFiler™ Express kit sizing range.

All allelic ladders yielded passing results, indicating that each allele was within the specified bin definition of the system.



**Figure 4** Sizing precision assessed by standard deviation of each allele in the allelic ladder run on 5 RapidHIT ID instruments.

## Genotyping concordance: Concordance, peak height ratio, peak height, color balance, and variation comparisons

### Results for positive controls

The expected genotype for 007 DNA control was generated for 79 positive control samples tested on 6 instruments. Two positive controls failed primary analysis (❌ result on the instrument).

Positive control peak height ratio, peak height, color balance and signal variation were also evaluated for the 79 controls.

**Table 7** Average peak height ratio (PHR) for 79 positive control samples calculated per heterozygote marker

Marker	Avg PHR	SD PHR
D3S1358	0.9083	0.071
vWA	0.7485	0.1174
D16S539	0.8689	0.0805
CSF1PO	0.8522	0.0992
AMEL	0.8259	0.1183
D8S1179	0.8548	0.0963
D21S11	0.7906	0.1187
D18S51	0.8761	0.0823
D2S441	0.8728	0.0759
D19S433	0.8416	0.0878
TH01	0.8547	0.099
FGA	0.8891	0.0721
D22S1045	0.7315	0.1086
D7S820	0.785	0.1083
SE33	0.7905	0.1115
D10S1248	0.855	0.0846
D1S1656	0.8307	0.0963
D12S391	0.8363	0.0909
D2S1338	0.8556	0.0923

The average peak height was calculated for the 79 positive controls for each dye channel and used to calculate intercolor balance (ratio of the average peak heights between dyes expressed as a percentage) and intracolor balance (ratio of the average lowest peak height for any allele by the average of the highest peak height for any

allele within a dye channel expressed as a percentage). All autosomal STR and amelogenin peak heights were normalized: homozygous alleles were divided by 2 and heterozygote peak heights were averaged; native peak heights were used for all Y-markers.

Signal variability was measured using %CV (the average SD for size standard peaks across injections divided by the mean of all size standard peaks) and is reported as a percentage.

**Table 8** Average peak height, intracolor balance, intercolor balance, and variation as measured by %CV calculated from 79 positive control cartridges run on 6 instruments

Dye	Average Peak Height (RFU)	Intra-color Balance	Inter-color Balance	%CV
Blue	5,109	42%	23%	—
Green	3,476	35%	16%	
Yellow	5,460	40%	25%	
Red	4,707	36%	22%	
Purple	3,130	32%	14%	
Orange	—	—	—	10%

**Results for samples from the sensitivity, mock casework, and mixture studies**

1,199 of the 1,216 samples generated expected genotyping results based on the 3500xL data.

18 peaks were observed in 17 samples across 6 instruments that were not concordant with the 3500xL data.

- Samples 1 and 2 (run on different instruments) were flagged as out of bin (OB) instead of the expected allele calls. The migration difference of these two alleles was determined to be sample- and run-specific rather than an indication of a systemic issue.
- Sample 3 had 3 peaks at SE33: 27.2 (365 RFU), 28.2 (244 RFU), and 29.2 (205 RFU) respectively, which triggered the ploidy flag (PL). During secondary analysis, the 3 peaks were not edited because of the peak heights. The 3500xL-generated genotype was heterozygous 28.2, 29.2 at SE33 for this sample. It was hypothesized that this third peak could be elevated stutter or allele drop-in. Multiple other markers in this sample triggered:
  - IHE flag for peaks >640 RFU minimum heterozygous peak intensity threshold.
  - IHO flag for single peaks below the 1,600 RFU stochastic threshold.
- Sample 4 also triggered the IHO quality score flag because a peak at a different marker was below the stochastic threshold (1,600 RFU).

The expected genotype at the TH01 locus was a 7 homozygote.

Samples 4 and 5 generated a 5.3, 7 apparent heterozygous genotype. During secondary analysis, the heterozygous genotype was confirmed based on the a) peak height ratio of the two alleles (41% and 54%, both greater than the minimum peak height ratio) and b) the peak height of both alleles was >640 RFU minimum heterozygous peak intensity threshold. Because these values exceed system

thresholds, no quality score flags were triggered and the peaks were not edited. However, when compared to the 3500xL data, the genotype was not concordant. Of the 19 blood samples tested from this donor across sensitivity and casework studies, 37% showed the 5.3 stutter peak at TH01 above the 50 RFU analytical threshold. In two of the samples, the artifact did not trigger the IHE or IMB flags, therefore the peak was called as 5.3, 7. This DNA-dependant n –5 artifact has been observed in other samples and the positive control.

Figure 5 is an example where the TH01 artifact was not edited and was concluded to be part of the genotype. Figure 6 is an example where the TH01 artifact was edited and not considered to be part of the genotype.

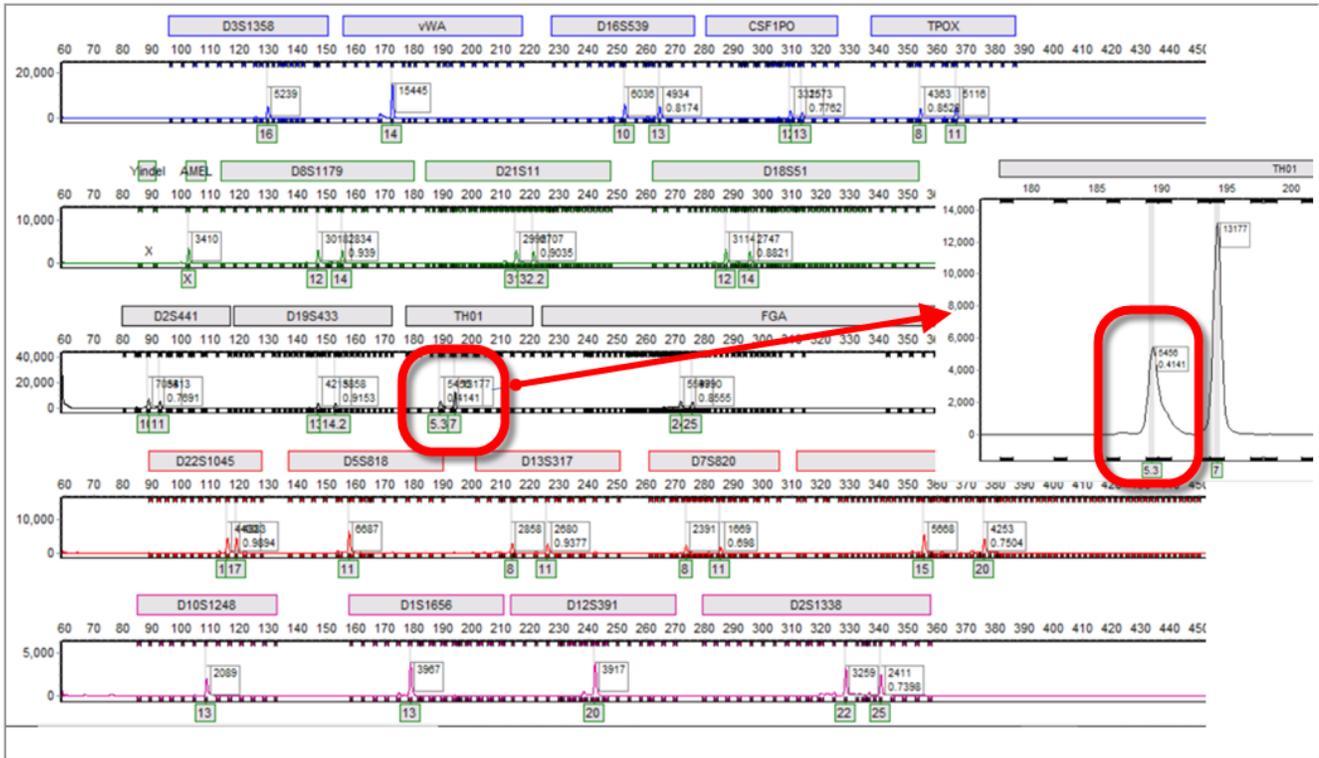
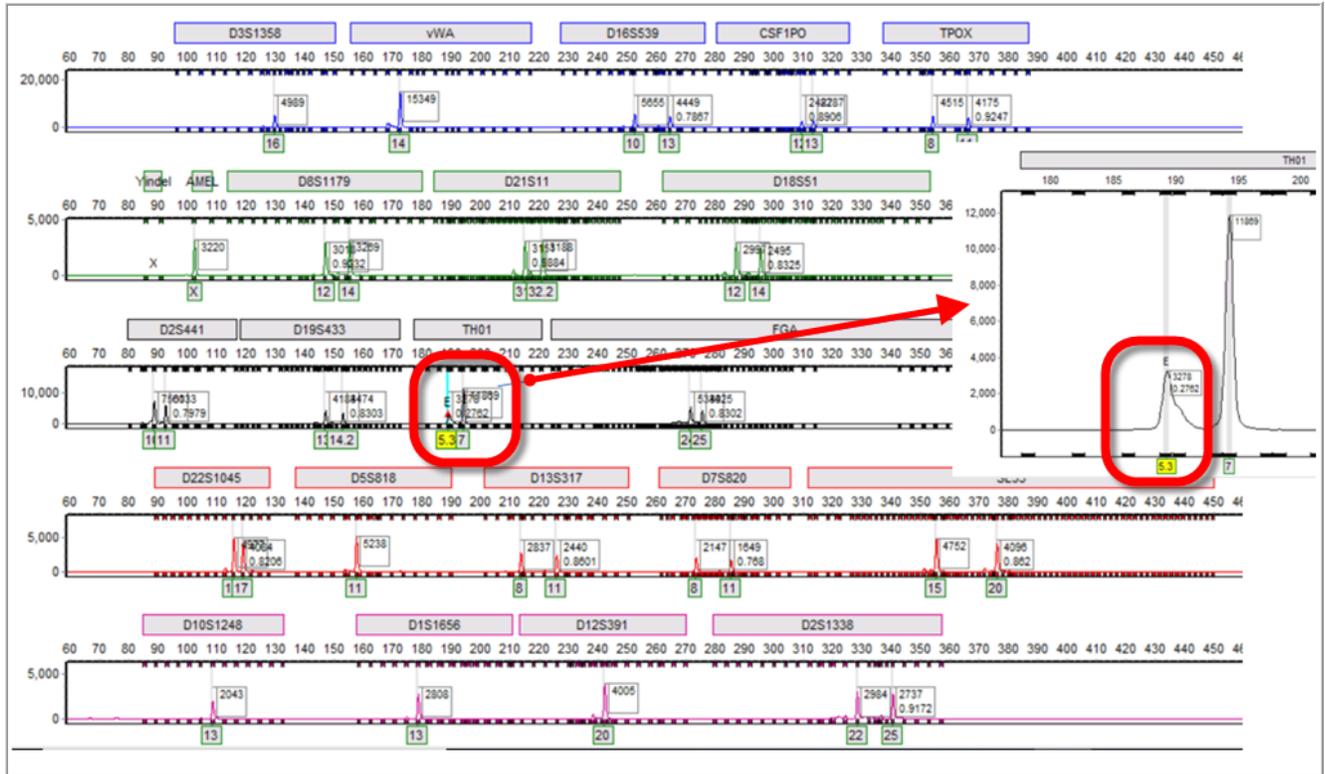


Figure 5 Electropherogram of the half-business-card-sized blood smear replicate 1, where the 5.3 was called at TH01. This peak is 5 nucleotides shorter than the 7 allele, and the peak height ratio between the two peaks is 41%. The inlay of TH01 shows the 5.3 peak called at 5,456 RFU and the main allele peak (7) at 13,177 RFU. The 5.3 peak was not deleted during secondary analysis.



**Figure 6** Electropherogram of the half-business-card-sized blood smear replicate 3, where the 5.3 was called and flagged at TH01 below the 40% peak height ratio flag [5.3 peak was 38% of the 7 allele] (marked as E=edited by user). This peak was deleted during secondary analysis.

- Samples 6–17 generated data with a false homozygote allele (a single peak at a marker above the 1,600 RFU stochastic threshold), when the true genotype at these markers was heterozygous. All of the samples had at least one other marker flagged during primary analysis; however, during secondary analysis the homozygote call was confirmed based on the peak height of the homozygote allele and drop-out of the heterozygote allele.

Out of 10,437 markers evaluated across all samples, there were 13 observations in 12 samples of a single allele of a heterozygous pair above the stochastic threshold. This equates to a 0.1% false homozygote rate. This data confirms that the stochastic threshold of 1,600 RFU applied for the RapidINTEL™ Sample Cartridges is applicable across various DNA inputs for multiple sample and substrate combinations.

**Table 9** Instances of false homozygotes detected above the stochastic threshold

Sample type	Volume	Marker	Peak height (RFU) of false homozygote
Blood	0.25 µL	D22S1045	2,031
	0.5 µL	TPOX	1,600
	1 µL	D2S1338	1,612
	1 µL	D21S11	1,706
		D5S818	1,738

Sample type	Volume	Marker	Peak height (RFU) of false homozygote
Blood	15 µL	vWA	1,902
	1 µL	SE33	3,109
	1 µL	D22S1045	2,474
	7.5 µL	D21S11	1,972
Saliva	2 µL	vWA	2,107
	4 µL	TPOX	1,890
	6 µL	D22S1045	2,345
	2 µL	FGA	1,944

## Sensitivity results

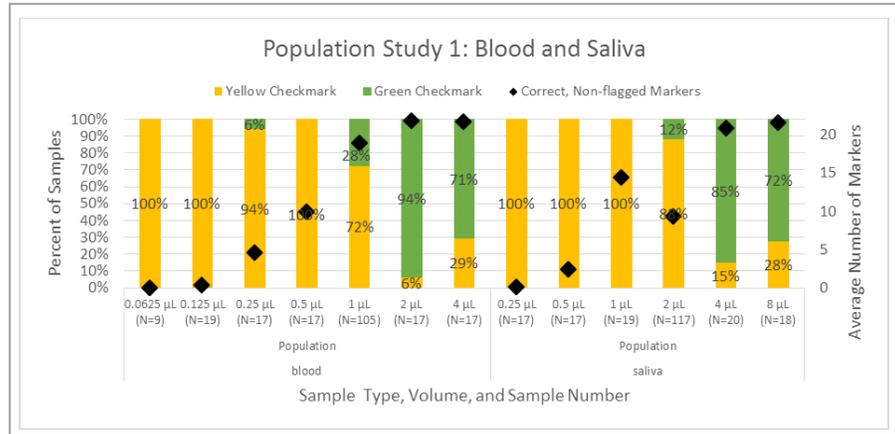
Population study 1 used blood (at 7 different volumes) and buccal (at 6 different volumes) samples from 10 unique donors (Figure 7).

Population study 2 used blood samples (at 5 different volumes) from 46 unique donors and saliva samples from 51 unique donors (at 6 different volumes) (Figure 8 and Figure 9 and Table 10).

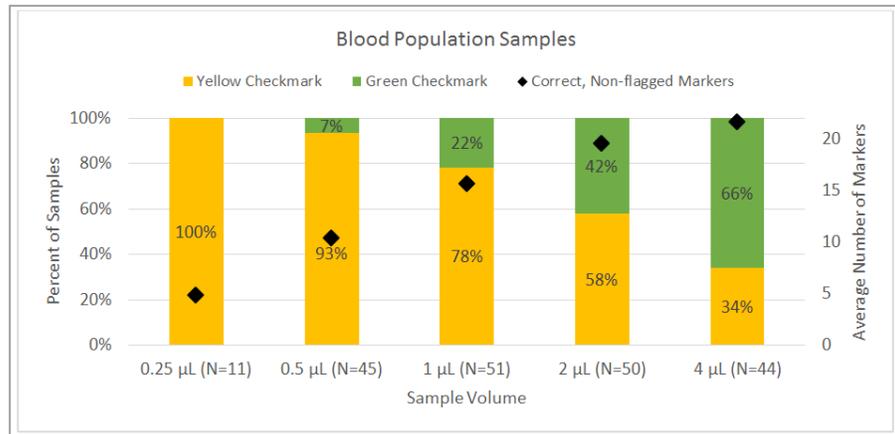
Both studies evaluated primary analysis pass rate (the number of  results on the instrument) and the average number of correct, unflagged markers per sample after primary analysis.

In addition, population study 2 evaluated:

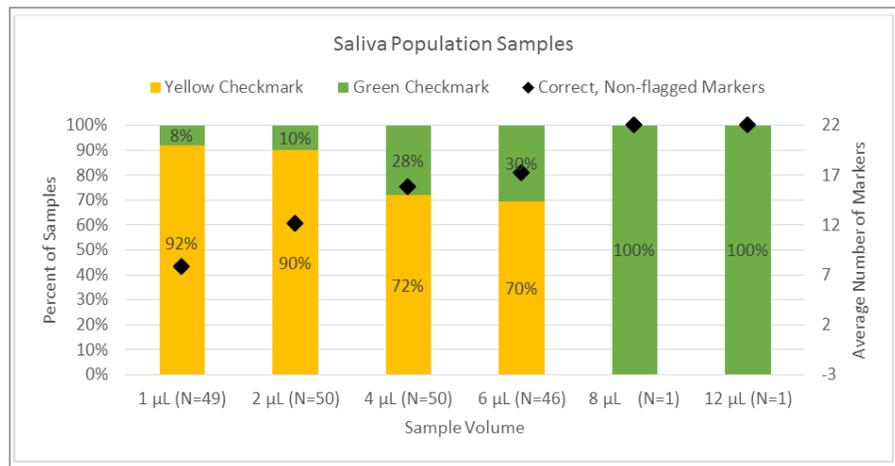
- Peak heights and peak height ratios for the blood and saliva samples (Figure 10 through Figure 13). Due to the sample size n=1 for the 8 and 12 µL volume saliva data, the two samples were excluded from peak height and peak height ratio calculations.
- Marker recovery after secondary analysis (Table 10 on page 24). Y indel and DYS391 are not included in the marker recovery evaluation; therefore, the total possible number of markers is 22.



**Figure 7** Population study 1: Primary analysis: Pass rate and average number of correct, unflagged markers for varying inputs of blood and saliva samples run on 6 instruments



**Figure 8** Population study 2: Primary analysis: Pass rate and average number of correct, unflagged markers for varying inputs of blood samples run on 6 instruments



**Figure 9** Population study 2: Primary pass rate and average number of correct, unflagged markers recovered for varying inputs of saliva samples run on 6 instruments

Overall, Table 10 demonstrates marker recovery increased 18% for blood samples and 17% for saliva samples after secondary analysis. The Y indel and DYS391 markers were not included in the calculations.

**Table 10** Population study 2: Percent of correct, unflagged markers after primary analysis and markers recovered/ confirmed after secondary analysis for the 398 blood and buccal samples. The Y indel and DYS391 markers were not included; the 8 and 12 µL saliva samples were removed due to the limited sample size.

Sample type	Volume	Percent of correct, unflagged markers after primary analysis	Percent of correct, unflagged markers plus confirmed markers during secondary analysis
Blood	0.25 µL	16%	29%
	0.5 µL	34%	48%
	1 µL	49%	72%
	2 µL	58%	81%
	4 µL	77%	89%
Saliva	1 µL	19%	34%
	2 µL	35%	53%
	4 µL	44%	61%
	6 µL	55%	75%

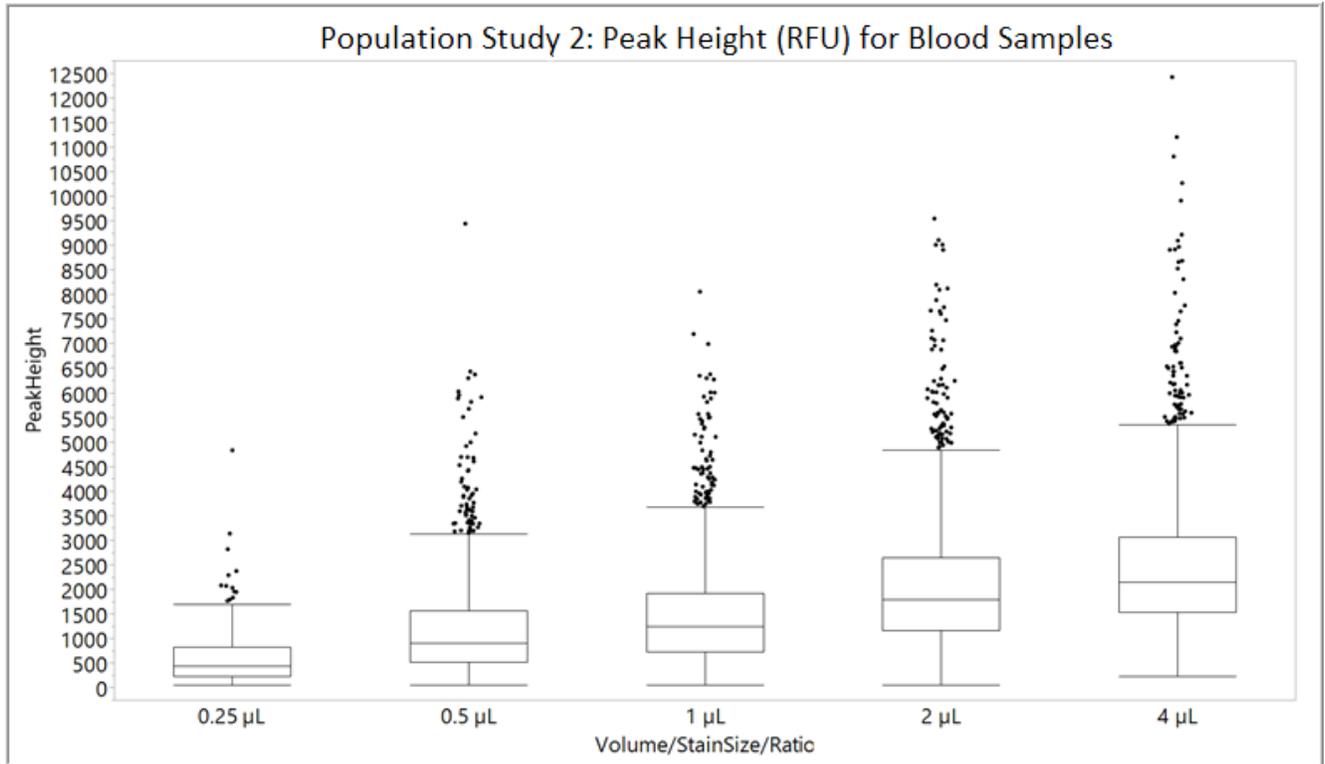


Figure 10 Peak height (RFU) for the population study 2 blood samples (n=201)

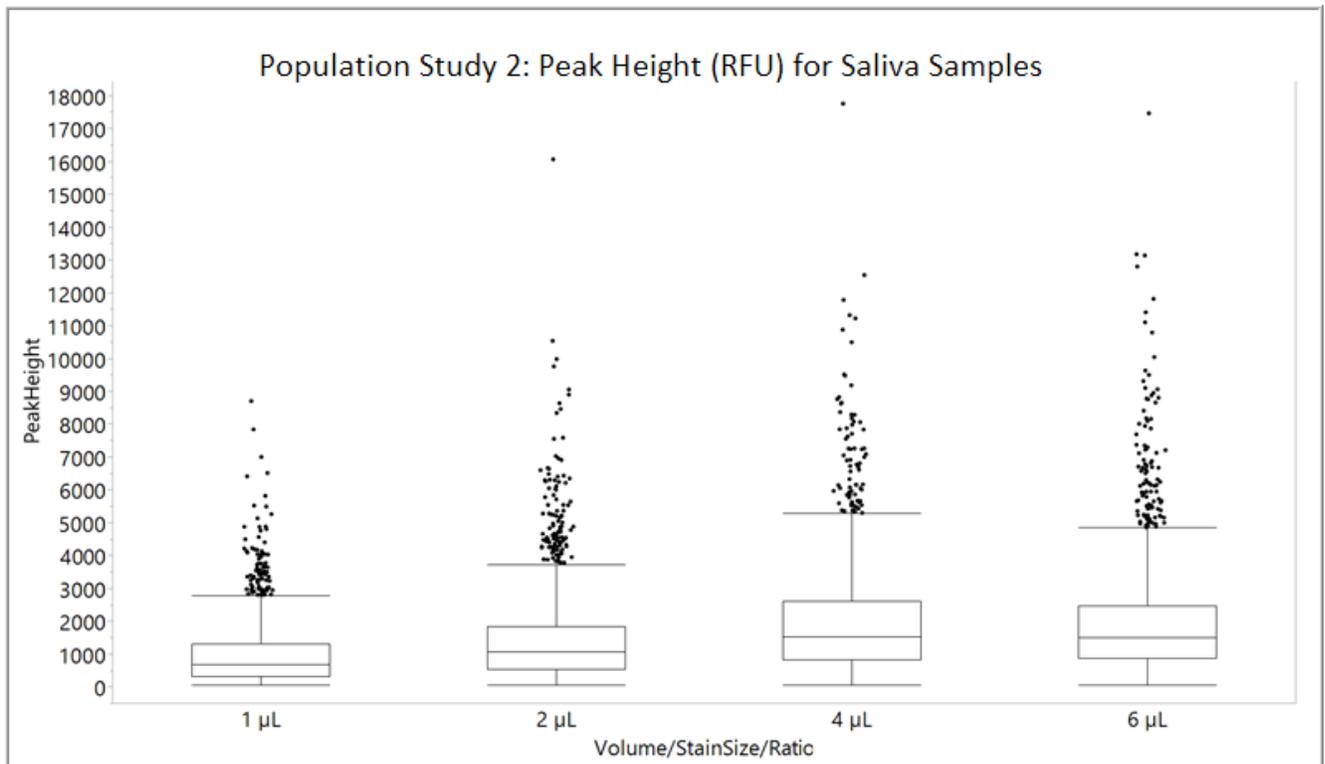


Figure 11 Peak height (RFU) for the population study 2 saliva samples (n=195, the 8 and 12 µL samples were excluded from analysis)

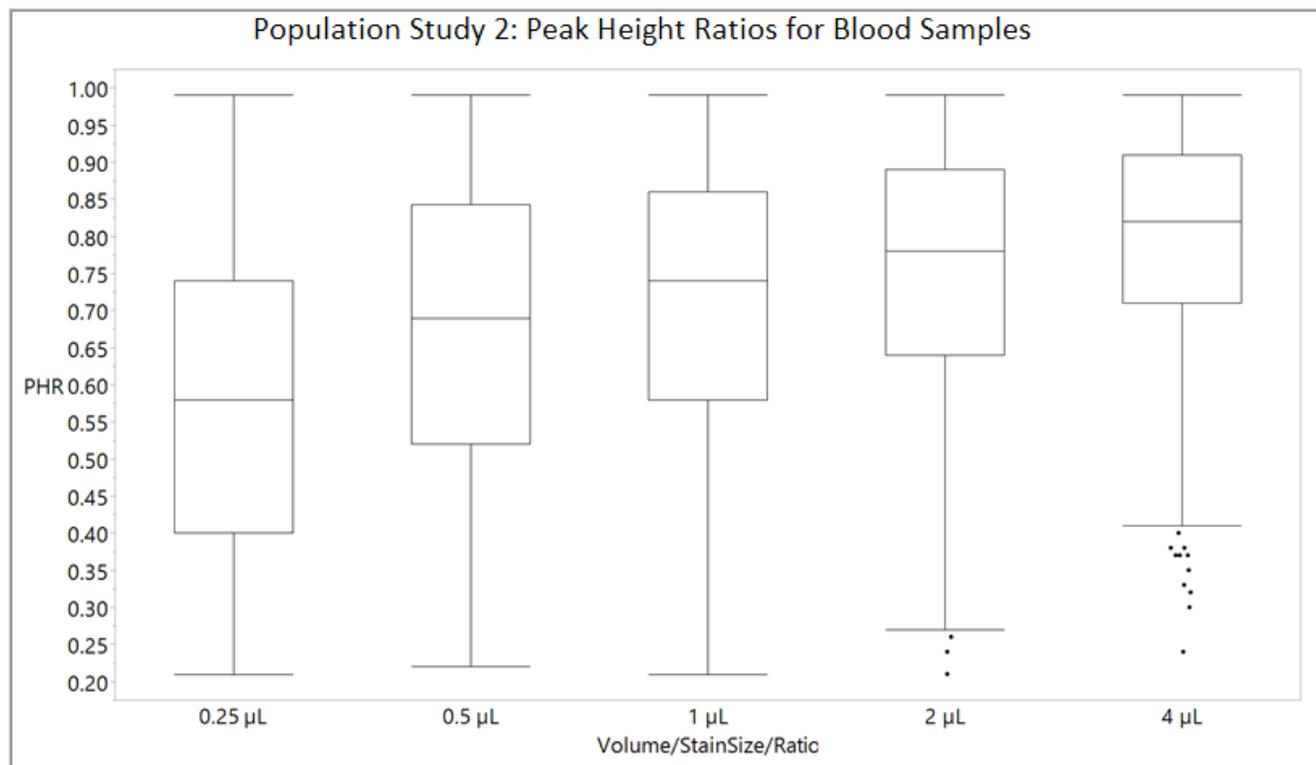


Figure 12 Peak height ratios for the population study 2 blood samples (n=201)

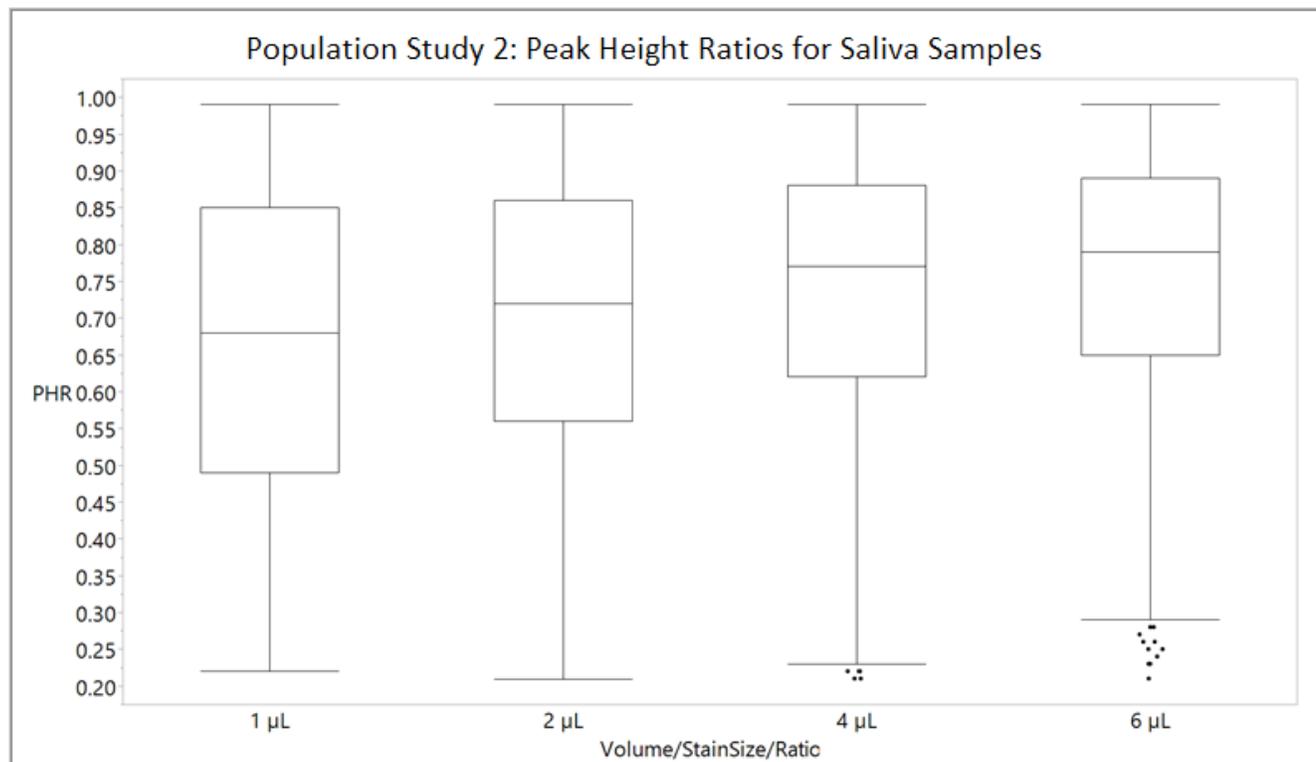


Figure 13 Peak height ratios for the population study 2 saliva samples (n=195, the 8 and 12  $\mu\text{L}$  samples were excluded from analysis)

## Mixture results

Three studies evaluated the performance of RapidINTEL™ Sample Cartridges with samples containing more than one contributor. Mixtures should trigger the ploidy flag (PL) in primary analysis if the peak height of the minor contributor peak in a mixture exceeds the analytical threshold and the locus-specific filter.

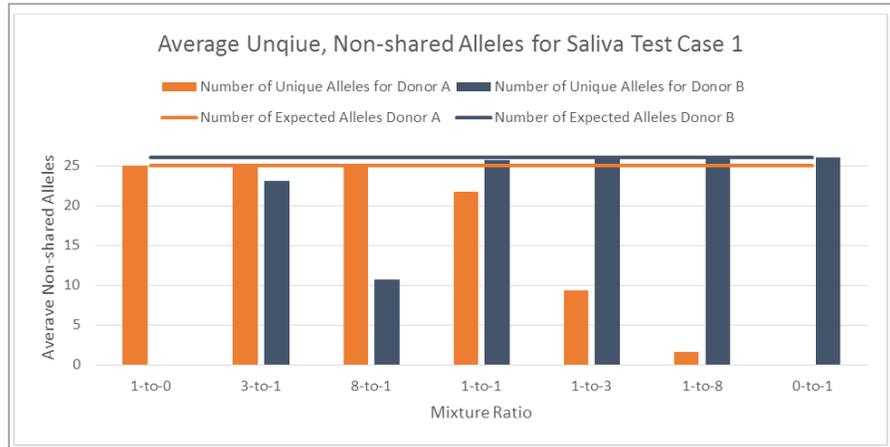
### Mixture study 1

Mixture study 1 used a total of 4 µL of saliva from two donors run on 6 instruments at mixture ratios of donor A: donor B of 1:0, 1:1, 1:3, 1:8, 8:1, 3:1, 0:1. Primary analysis generated  results (PL flag) for mixtures down to a 1:8 and 8:1 ratio. One of the eight 1:8 samples generated a  result, which indicates that the mixture was not detected (Table 11 and Figure 15). All of the alleles in the  1:8 sample were from the major contributor. This data was analyzed with a 21% locus-specific filter, which can mask minor contributor alleles in low mixed-source ratio samples.

**Table 11** Mixture study 1: Saliva mixture samples showing that 1 of the 1:8 mixture samples did not trigger the PL flag. As expected, the 0:1 and 1:0 single-source samples did not trigger the PL flag.

Mixture ratio	Donor A (µL)	Donor B (µL)	Yellow 	Green 	Replicates
0:1	0	1	1	1	2
1:0	1	0	1	1	2
1:1	2	2	18	—	8
1:3	1	3	8	—	8
1:8	0.45	3.55	7	1	8
3:1	3	1	9	—	8
8:1	3.55	0.45	8	—	8

The unique alleles that are not shared between donors for mixture study 1 are represented in Figure 14. There are 25 possible unique alleles for donor A and 26 possible unique alleles for Donor B.



**Figure 14** Mixture study 1: Average number of unique alleles detected for donor A and donor B in the saliva mixture samples. Two replicates were processed for the 1:0 and 0:1 and 8 replicates for all other mixture ratios.

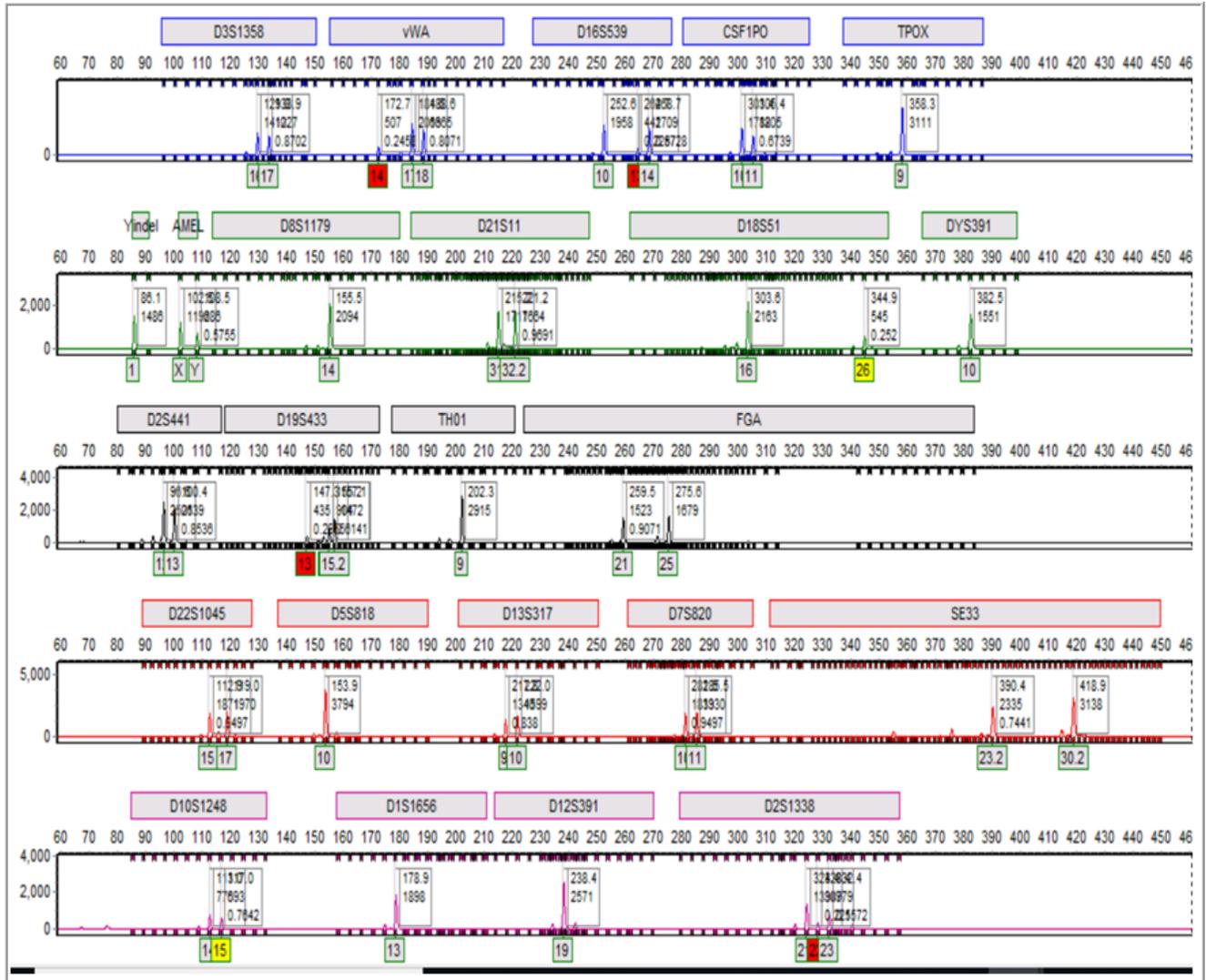


Figure 15 Mixture study 1: Electropherogram the  8:1 blood mixture sample in GeneMarker™ HID software, with 1 µL of Donor 1 and 0.125 µL of Donor 2. Ploidy flags (red PL allele labels) were triggered at 4 loci after primary analysis, which indicate a mixture. The D19S433 marker has an additional 15 major allele that is not visible in this image.

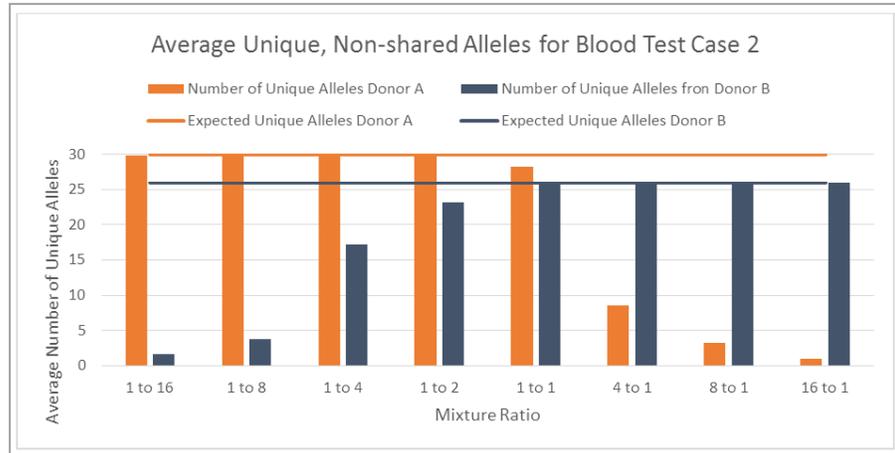
### Mixture studies 2 and 3

Mixture studies 2 and 3 used varying inputs of blood from 2 donors on 6 instruments. Primary analysis generated  results (PL flag) for mixtures down to 1:16 and 16:1 ratios. Two of the 5 (16:1) samples generated a  result, which indicates that the mixture was not detected (Table 12 and Figure 18). All of the alleles in the  16:1 samples were from the major contributor. This data was analyzed with a 21% locus-specific filter which can mask minor contributor alleles in low mixed-source ratio samples.

**Table 12** Mixture studies 2 and 3: Blood mixture samples showing that only two of the 16:1 mixture samples did not trigger the PL flag

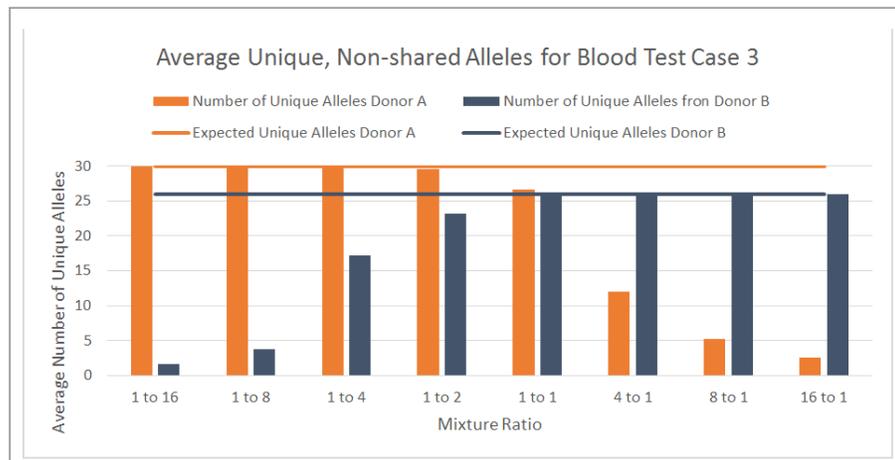
Mixture ratio	Donor A (µL)	Donor B (µL)	Yellow 	Green 	Replicates
<b>Test case 2: Higher input blood samples</b>					
1:1	0.5	0.5	5	0	5
1:2	0.5	1	5	0	5
1:4	0.25	1	5	0	5
1:8	0.125	1	5	0	5
1:16	0.062	1	5	0	5
16:1	1	0.062	3	2	5
8:1	1	0.125	5	0	5
4:1	1	0.25	5	0	5
<b>Test case 3: Lower input blood samples</b>					
1:1	0.33	0.33	5	0	5
1:2	0.33	0.67	5	0	5
1:4	0.165	0.67	5	0	5
1:8	0.083	0.67	5	0	5
1:16	0.042	0.67	5	0	5
16:1	0.67	0.042	5	0	5
8:1	0.67	0.083	5	0	5
4:1	0.67	0.165	5	0	5

The unique alleles that were not shared between donors in mixture study 2 are represented in Figure 16. There are 30 possible unique alleles for donor A and 26 possible unique alleles for Donor B.



**Figure 16** Mixture study 2: Average number of unique alleles detected for donor A and donor B in the higher input blood mixture samples. Five replicates processed for each mixture ratio.

The unique alleles that were not shared between donors for mixture study 3 are represented in Figure 17. There are 26 possible unique alleles for donor A and 30 possible unique alleles for Donor B.



**Figure 17** Mixture study 3: Average number of unique alleles detected for donor A and donor B in the lower input blood mixture samples. Five replicates were processed for each mixture ratio.

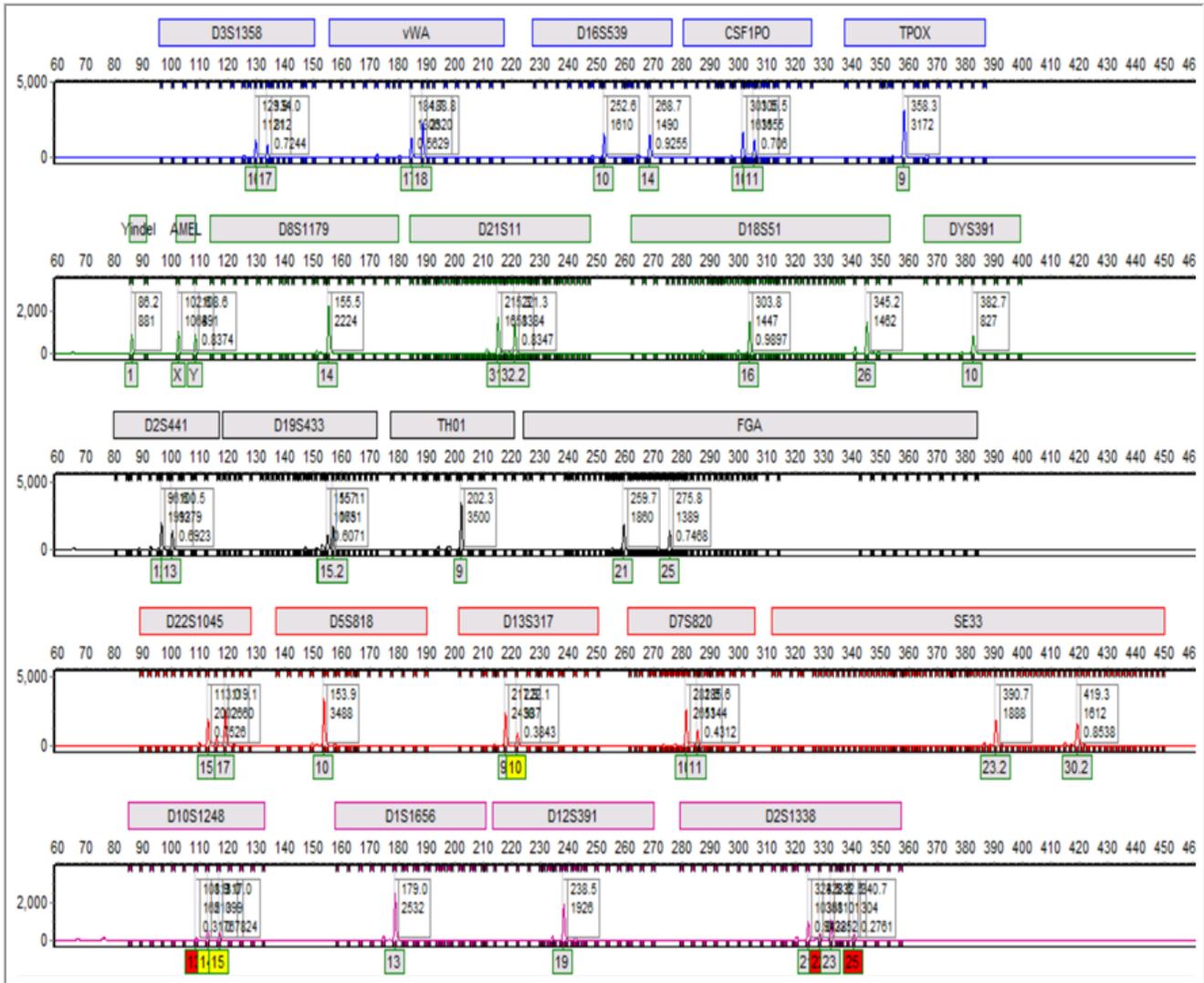


Figure 18 Mixture study 2: Electropherogram of the  16:1 blood mixture sample, with 0.67  $\mu$ L of Donor 1 and 0.42  $\mu$ L of Donor 2, where ploidy flags (red PL allele labels) were triggered at 2 loci after primary analysis, which indicate a mixture.

## Mock casework results

Blood, saliva, hair, and touch samples were prepared at multiple sample volumes on different substrates to mimic casework-type samples.

Two mock-casework studies were performed to evaluate primary analysis pass rate, the average number of correct, unflagged markers after primary analysis, and secondary analysis marker recovery by sample and substrate type.

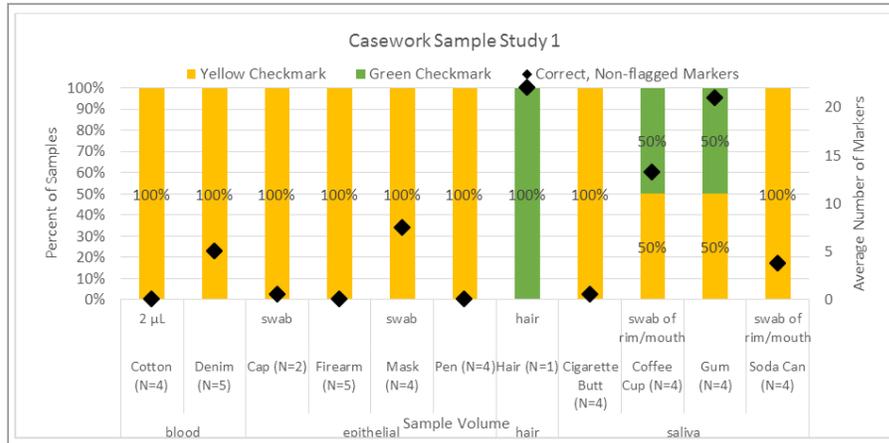
**Table 13** Samples for mock-casework study 1

Sample type	Substrate	Volume or sample size <sup>[1]</sup>	Replicates
Blood	Cotton	2 µL drop, swab	n=4
	Denim: Blood was spotted and dried in 2013, then stored at room temperature.	1 µL drop, swab	n=5
Saliva	Coffee cup: Entire contents consumed, then top was swabbed	Swab	n=4
	Soda can: Entire contents consumed, then mouth area was swabbed	Swab	n=4
	Cigarette butts	Entire wrapper paper on the filter portion of the cigarette <sup>[2]</sup>	n=4
	Gum: Chewed for 30 minutes, rolled into slender shape, stored in refrigerator until processing.	Entire piece of gum <sup>[2]</sup>	n=4
Hair	Pulled hair	Hair root <sup>[2]</sup>	n=1
Touch	Firearm handled by a single donor	Swab	n=5
	Face mask worn by a single donor	Swab	n=4
	Hat worn by single donor	Swab	n=2
	Pen handled by a single donor	Swab	n=4

<sup>[1]</sup> Dual wet-swab technique was used for swab collections, one swab was processed. Therefore, the swab that was processed contained half the total amount of DNA collected.

<sup>[2]</sup> The item was placed directly into a sample cartridge.

Mock-casework study 1 processed a limited number of blood, saliva, epithelial/touch samples, and a hair sample. Primary pass rate and the average number of correct, unflagged markers per sample after primary analysis are shown in Figure 19 and Table 14. Yindel and DYS391 are not included in the markers recovered (therefore, the total possible number of markers is 22).



**Figure 19** Mock-casework study 1: Primary analysis: Pass rate and average number of correct, unflagged markers for varying inputs of blood and saliva samples run on 6 instruments

Table 14 shows that secondary analysis generally improved marker recovery.

**Table 14** Mock-casework study 1: Percent of correct, unflagged markers after primary analysis and markers recovered/ confirmed after secondary analysis

Sample type	Substrate type	Percent of correct, unflagged markers after primary analysis	Percent of correct, unflagged markers plus confirmed markers during secondary analysis
Blood	Cotton (n=4)	0%	0%
	Denim (n=5)	23%	33%
Epithelial	Cap (n=2)	2%	2%
	Firearm (n=5)	0%	0%
	Mask (n=4)	34%	47%
	Pen (n=4)	0%	0%
Saliva	Cigarette butt (n=4)	2%	2%
	Coffee cup (n=4)	20%	20%
	Gum (n=4)	91%	100%
	Soda can (n=4)	17%	44%
Hair Root	Hair root (n=1)	100%	100%

Mock-casework study 2 included differing inputs of blood and saliva on various substrates and hair roots. The data is shown in Figure 20 and Figure 21.

Table 15 Samples for mock-casework study 2

Sample type	Substrate	Volume or sample size <sup>[1]</sup>	Replicates
Blood	Glass (see Figure 1 on page 10)	<ul style="list-style-type: none"> <li>7.5 µL drop (1/2 pill size)</li> <li>15 µL drop (1 pill size)</li> <li>30 µL drop (2 pill size)</li> </ul>	3 swabs from each volume
	Tile (ceramic)	<ul style="list-style-type: none"> <li>25 µL smear (quarter of business card)</li> <li>50 µL smear (half of business card)</li> <li>100 µL smear (business card)</li> </ul>	3 or 6 swabs from each volume
	Tarred surface (see Figure 1 on page 10)	<ul style="list-style-type: none"> <li>15 µL drop</li> <li>30 µL drop</li> </ul>	4 or 5 swabs from each volume
	Drywall (see Figure 1 on page 10)	<ul style="list-style-type: none"> <li>4 µL drop (1/2 pill size)</li> <li>7.5 µL drop (1 pill size)</li> <li>15 µL drop (2 pill size)</li> </ul>	3 swabs from each volume
	Black underwear	<ul style="list-style-type: none"> <li>3.75 µL drop (1/4 pill size)</li> <li>7.5 µL drop (1/2 pill size)</li> <li>15 µL drop (1 pill size)</li> <li>30 µL drop (2 pill size)</li> <li>60 µL drop (4 pill size)</li> </ul>	1 to 5 swabs from each volume
	White cotton: Blood was spotted and dried in 2010, then stored at room temperature.	2 µL drop, 5 mm punch <sup>[2]</sup>	n=3
	Denim: Blood was spotted and dried in 2013, then stored at room temperature.	1 µL drop, 5 mm punch <sup>[2]</sup>	n=1
Saliva	Water bottle: Entire contents was consumed, then the top was swabbed.	Swab	n=3
	Coffee cup: Entire contents was consumed, then the top was swabbed.	Swab	n=4

Sample type	Substrate	Volume or sample size <sup>[1]</sup>	Replicates
Saliva	Cigarette butts	<ul style="list-style-type: none"> <li>Dual swab collection/one swab processed</li> <li>Single swab collection/one swab processed</li> <li>Half paper<sup>[2]</sup></li> <li>Whole paper<sup>[2]</sup></li> </ul>	<ul style="list-style-type: none"> <li>n=2 (dual swab collection)</li> <li>n=3 (single swab collection)</li> <li>n=3 (half paper)</li> <li>n=1 (whole paper)</li> </ul>
	Gum: Chewed for 30 minutes	Swab	n=3
Hair	Pulled hair	Root <sup>[2]</sup>	n=2

[1] Dual wet-swab technique was used for swab collections, one swab was processed (unless otherwise noted). Therefore, the swab that was processed contained half the total amount of DNA collected.

[2] The item was placed directly into a sample cartridge.

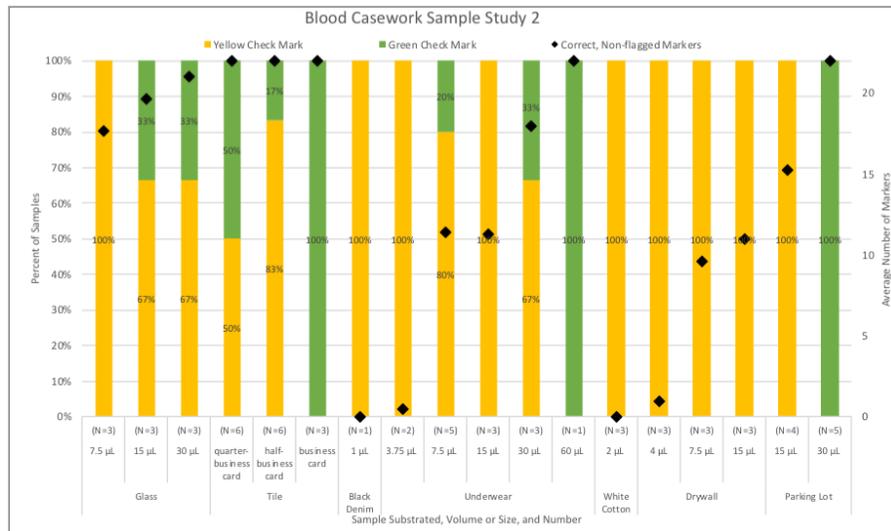
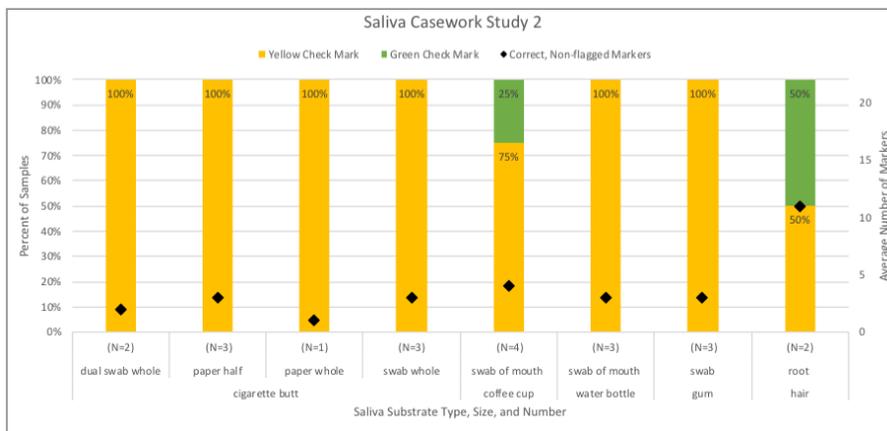


Figure 20 Mock-casework study 2: Primary analysis: Pass rate and average number of correct, unflagged markers recovered for varying inputs of blood mock casework samples run on 6 instruments.



**Figure 21** Mock-casework study 2: Primary analysis: Pass rate and average number of correct, unflagged markers for varying inputs of saliva and pulled hair mock casework samples run on 6 instruments.

Secondary analysis for casework test case 2 improved marker recovery for all samples where DNA was recovered with the exception of the blood on white cotton samples which remained the same, as seen in Table 16.

Multiple samples did not meet system thresholds during primary analysis (✓ result on the instrument). However, secondary analysis showed a full profile with a single marker flagged. For example, the blood on glass, tarred surface, and tile recovered over 90% of markers after secondary analysis.

**Table 16** Mock-casework study 2: Percent of correct, unflagged markers after primary analysis and markers recovered/ confirmed after secondary analysis

Sample type	Substrate type	Percent of correct, unflagged markers after primary analysis	Percent of correct, unflagged markers plus confirmed markers during secondary analysis
Blood	Denim (n=1)	0%	0%
	Drywall (n=9)	33%	57%
	Glass (n=9)	88 %	91 %
	Tarred surface (n=9)	86 %	93%
	Tile (n=15)	97%	99%
	Underwear (n=14)	55 %	69%
	White cotton (n=3)	6%	6%
Saliva	Cigarette butt (n=9)	8%	11%
	Coffee cup (n=4)	49 %	72%
	Gum (n=3)	0%	44%

Sample type	Substrate type	Percent of correct, unflagged markers after primary analysis	Percent of correct, unflagged markers plus confirmed markers during secondary analysis
Saliva	Water bottle (n=3)	0%	0%
Hair	Hair root (n=2)	50%	50%

Overall, blood samples show higher primary analysis pass rates and higher numbers of correct, non-flagged markers than saliva and touch samples. Variation in results between the sensitivity study and the mock casework study may be due to sampling technique or interferences from inhibitors present on the substrate.

## Non-allelic peak assessment

Non-allelic peaks were assessed for all samples in the sensitivity/ population, casework, and mixture studies (n=1,216).

### Pull-up edited during secondary analysis

Sixteen total instances of spectral pull-up were observed. Two elevated pull-up peaks were observed in two 4 µL blood population study samples at 11% and 40%. Excluding the 2 elevated pull-up peaks, the average pull-up percentage observed was 1.5%.

Table 17 Pull-up observations in the verification sample set

Marker	Dye	Parent Color	Pull-up %
DYS391	Green	Red	0.7
DYS391	Green	Red	0.7
DYS391	Green	Blue	1
Y indel	Green	Yellow	1
DYS391	Green	Blue	1.3
DYS391	Green	Red	1.6
Y indel	Green	Yellow	1.3
Y indel	Green	Yellow	0.9
DYS391	Green	Blue	1.4
Y indel	Green	Yellow	3.8
DYS391	Green	Blue	1.6
DYS391	Green	Red	2
Y indel	Green	Yellow	11
D2S441	Yellow	Green	41

Marker	Dye	Parent Color	Pull-up %
Y indel	Green	Yellow	0.9
Y indel	Green	Yellow	2.9
Average	—	—	4.5
Average without outliers	—	—	1.5

## Stutter

Stutter is a well-characterized PCR artifact that refers to the appearance of a minor peak 1 repeat-unit smaller than the target STR allele product (minus stutter), or less frequently, one repeat-unit larger (plus stutter) (Butler, 2005; Mulero et al., 2006). Sequence analysis of stutter products at tetranucleotide STR loci has revealed that the minus stutter product is missing a single tetranucleotide core repeat unit relative to the main allele (Walsh et al., 1996).

Stutter was observed in data from all 6 instruments (Figure 22 through Figure 27). Some conclusions from these measurements and observations are:

- Smaller alleles generally display a lower level of stutter relative to the longer alleles within each locus. TH01 does not appear to follow this pattern and shows similar levels of stutter for all alleles.
- Each allele within a locus displays a consistent stutter percentage.
- Peaks in the stutter position that are above the locus-specific stutter threshold are assigned allele labels. Peaks in the stutter position that are not filtered out can be further evaluated during secondary analysis.

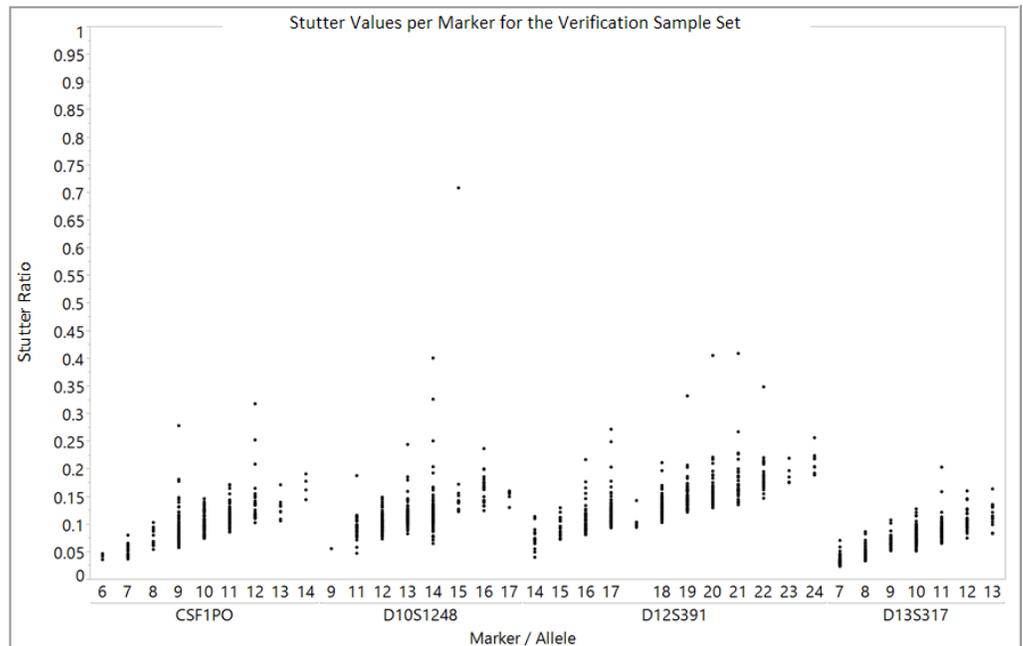


Figure 22 Stutter for CSF1PO, D10S1248, D12391, and D13S317 markers

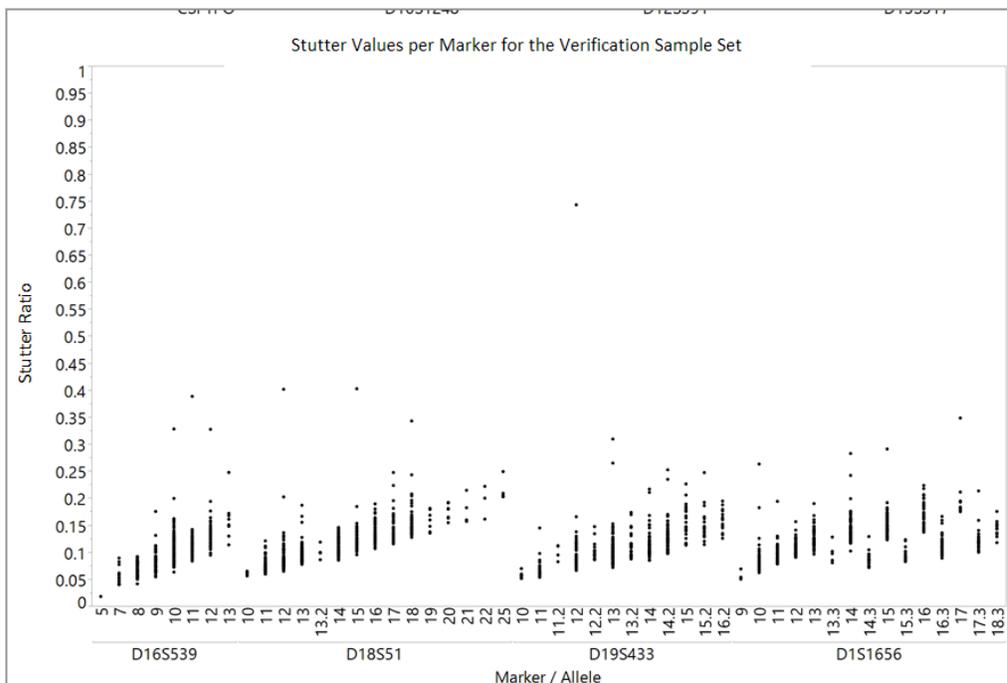


Figure 23 Stutter for D16S539, D18S51, D19S433, and D1S1656 markers

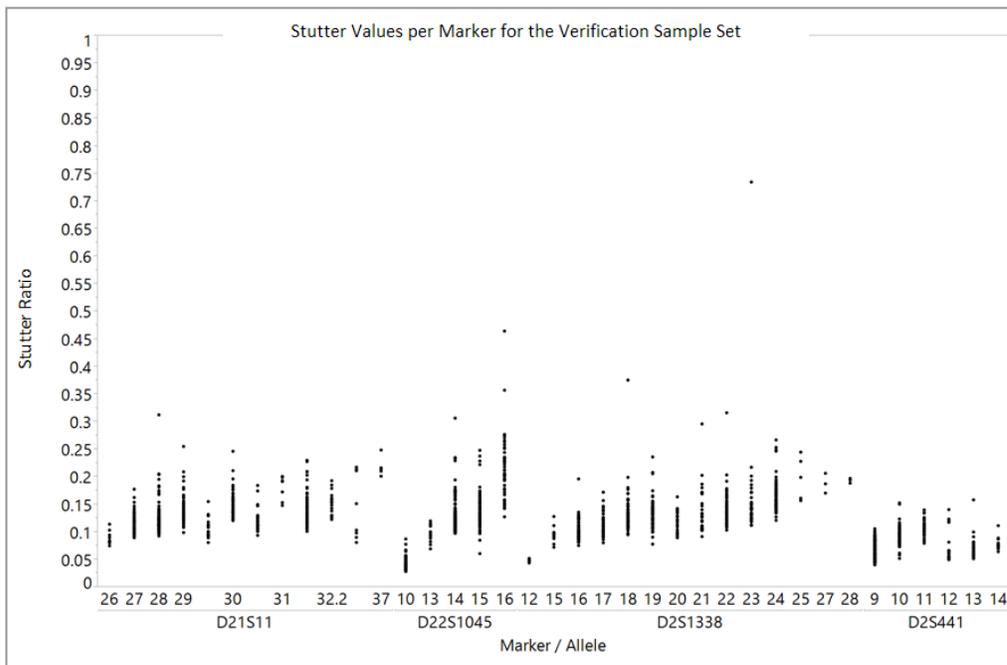


Figure 24 Stutter for D21S11, D22S1045, D2S1338, and D2S441 markers

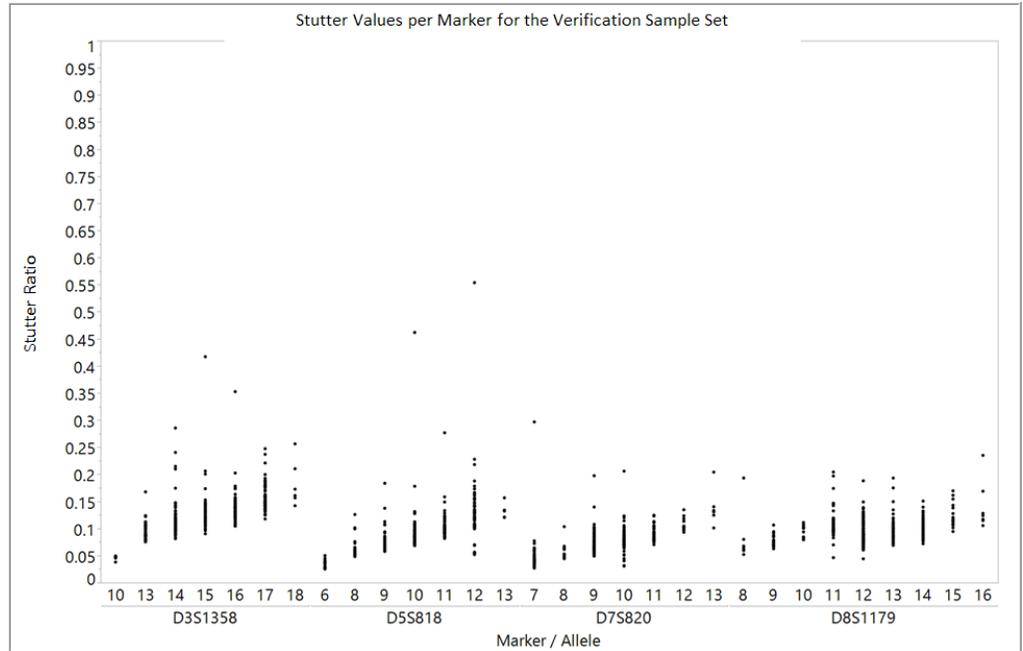


Figure 25 Stutter for D3S1358, D5S818, D7S820, and D8S1179 markers

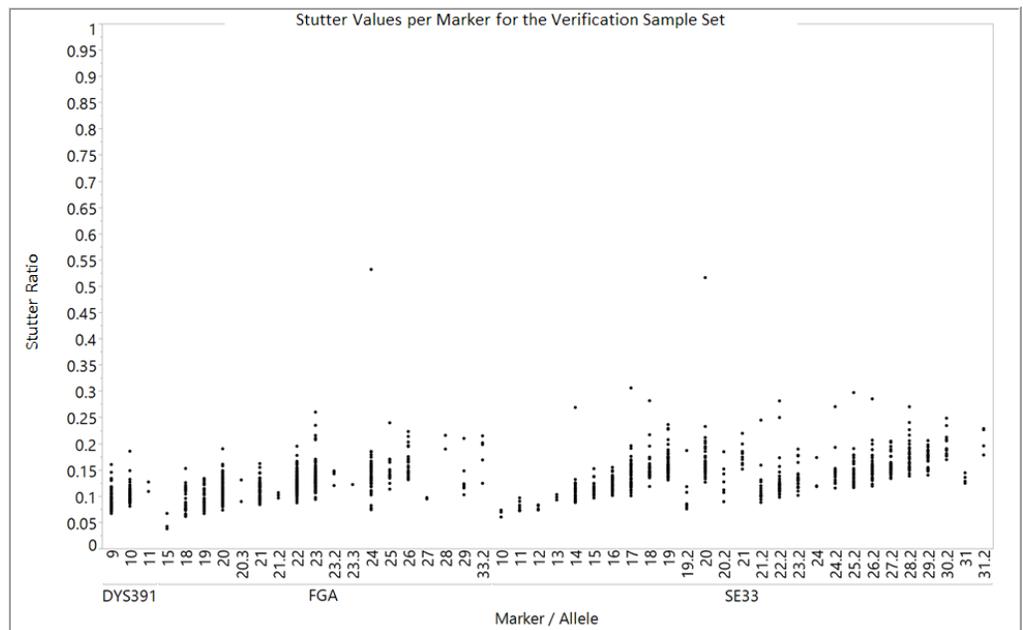
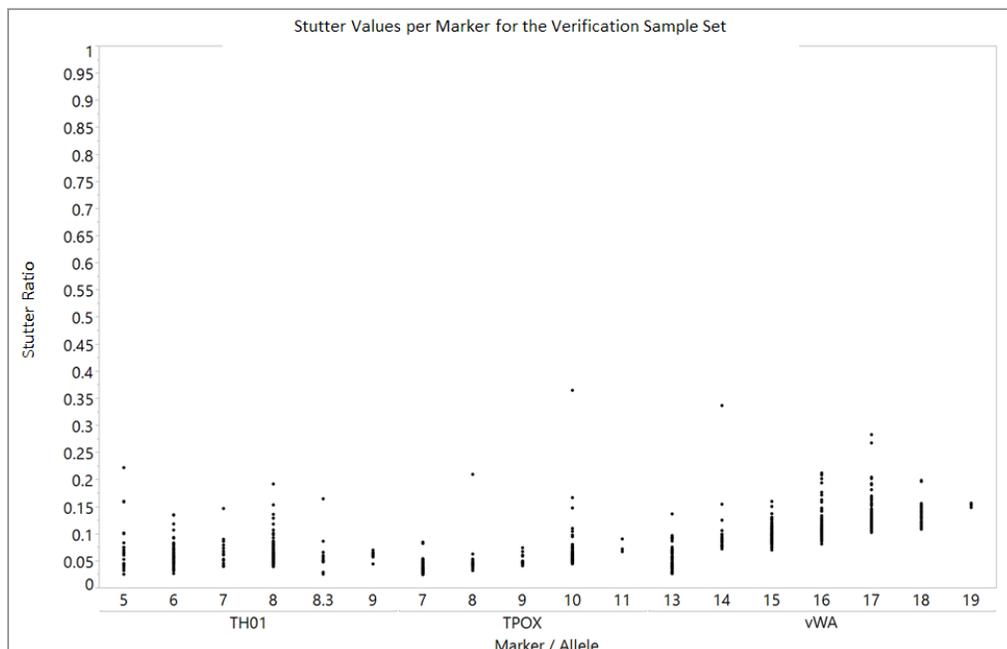


Figure 26 Stutter for DYS391, FGA, and SE33 markers

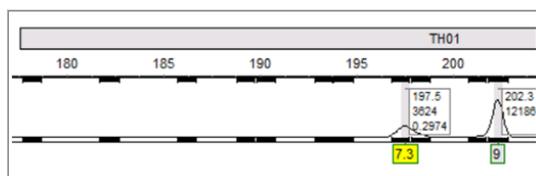


**Figure 27** Stutter for TH01, TPOX, and vWA markers

Thirty-seven instances of elevated minus stutter were observed in the verification sample set and edited during secondary analysis. There was no observable pattern of sample type or locus that demonstrated elevated stutter.

## Artifacts

Non-standard -5 nucleotide artifact peaks were observed for the TH01 marker in multiple samples across multiple donors, including the positive control. The artifact percentage for this peak was as high as 51% of the allele peak, and at times greater than the 640 RFU minimum heterozygous intensity inconclusive (IHE) flag threshold. This artifact is DNA template-dependent and is likely to be caused by the formation of a secondary structure in the target sequence. An example of the non-standard artifact peak at TH01 is shown in Figure 28.



**Figure 28** -5 nucleotide artifact peak at the TH01 marker. The stutter (7.3) peak height is 3,624 RFU and the allele peak (9) height is 12,180 RFU. The stutter peak is 30% of the allele peak and was edited during secondary analysis.

## Cartridge comparison: ACE GFE cartridge to RapidINTEL™ Sample Cartridge

Primary analysis results from the RapidHIT™ ID ACE GlobalFiler™ Express Sample Cartridge were compared to the RapidINTEL™ Sample Cartridge using samples from the mock casework and blood mixture studies. Both cartridges use the GlobalFiler™ Express chemistry.

System thresholds for the RapidHIT™ ID System v1.1.3 and both cartridges are listed in Table 18.

Marker recovery for the RapidINTEL™ Sample Cartridge was also assessed after secondary analysis.

**Table 18** RapidINTEL™ Sample Cartridge and ACE GFE cartridge on RapidHIT™ ID System v1.1.3 system thresholds

System threshold	RapidINTEL™ Sample Cartridge	ACE GFE cartridge
Analytical threshold	50 RFU	All loci 50 RFU, except: <ul style="list-style-type: none"> <li>• TPOX = 84 RFU</li> <li>• Y indel = 74 RFU</li> <li>• D2S441 = 68 RFU</li> </ul>
Stochastic threshold	1,600 RFU	All loci 100 RFU, except: <ul style="list-style-type: none"> <li>• TPOX = 210 RFU</li> <li>• Y indel = 74 RFU</li> <li>• DYS391 = 50 RFU</li> <li>• D2S441 = 136 RFU</li> <li>• SE33 = 150 RFU</li> <li>• D2S1338 = 125 RFU</li> </ul>
	50 RFU for Y indel and DYS391	
Minimum peak height ratio threshold (Heterozygote Imbalance (IMB flag) threshold)	40%	50%
	99% for Y indel and DYS391	
Minimum heterozygous peak intensity threshold (Inconclusive Heterozygous (IHE flag) threshold)	640 RFU	—
Stutter filters	Locus-specific	20%
Locus-specific filter	21%	20%
	30% for the positive control	
Ploidy (PL flag) threshold (maximum number of expected peaks)	2	2
Global filter (between loci)	21%	20%

System threshold	RapidINTEL™ Sample Cartridge	ACE GFE cartridge
Global filter (between loci)	30% for the positive control	20% for the positive control
Minimum off-ladder (OL) intensity	30 RFU	30 RFU

**Table 19** Mock-casework study 2 for ACE GFE cartridge and RapidINTEL™ Sample Cartridge: Primary analysis: Percent of correct, unflagged markers; Secondary analysis: Markers confirmed samples from RapidINTEL™ Sample Cartridge.

Sample type	Substrate type	Percent of correct, unflagged markers for ACE GFE cartridge primary analysis	Percent of unflagged markers for RapidINTEL™ Sample Cartridge primary analysis	Percent of correct, unflagged markers plus confirmed markers during secondary analysis of RapidINTEL™ Sample Cartridge
Blood	Denim (n=1)	0%	0%	0%
	Drywall (n=9)	25%	33%	57%
	Glass (n=9)	81%	88%	91%
	Tarred surface (n=9)	77%	86%	93%
	White cotton (n=3)	2%	6%	6%
Saliva	Cigarette butt (n=9)	0%	8%	11%
	Coffee cup (n=4)	11%	49%	72%
	Gum (n=3)	0%	0%	0%
	Water bottle (n=3)	0%	0%	0%

Additional alleles were also observed for the minor contributor in the blood mixture samples processed with the RapidINTEL™ Sample Cartridge vs. the ACE GFE cartridge.

Representative electropherograms for the ACE GFE cartridge and RapidINTEL™ Sample Cartridge of dual-swabbed samples are shown in Figure 29. For each sample, both cartridges were run on the same instrument.

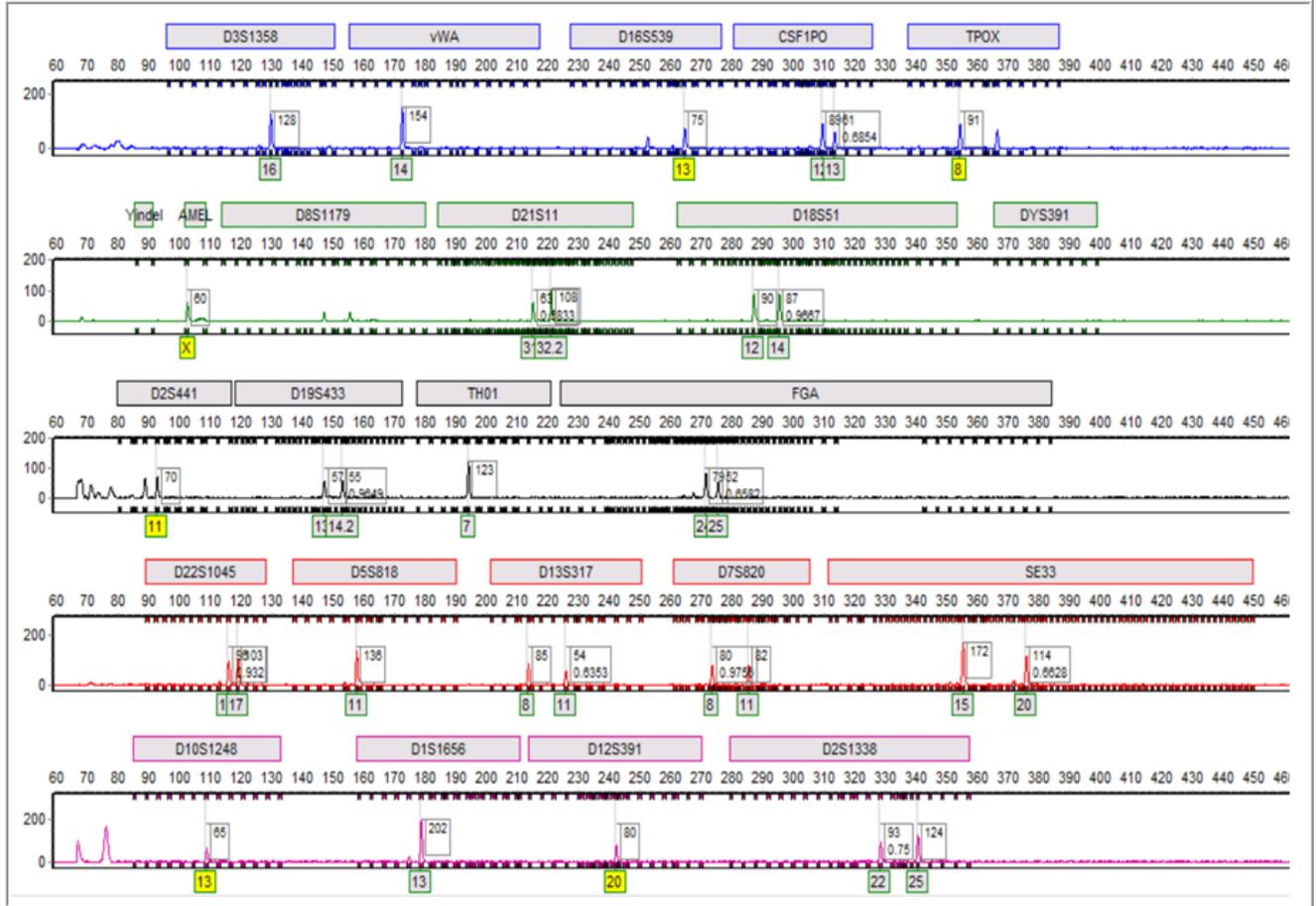


Figure 29 7.5 µL blood on glass sample run using the ACE GFE cartridge. Drop-out can be observed at the D8S1179 marker. Six flags are present (yellow peak labels) because a single peak is present below the ST.

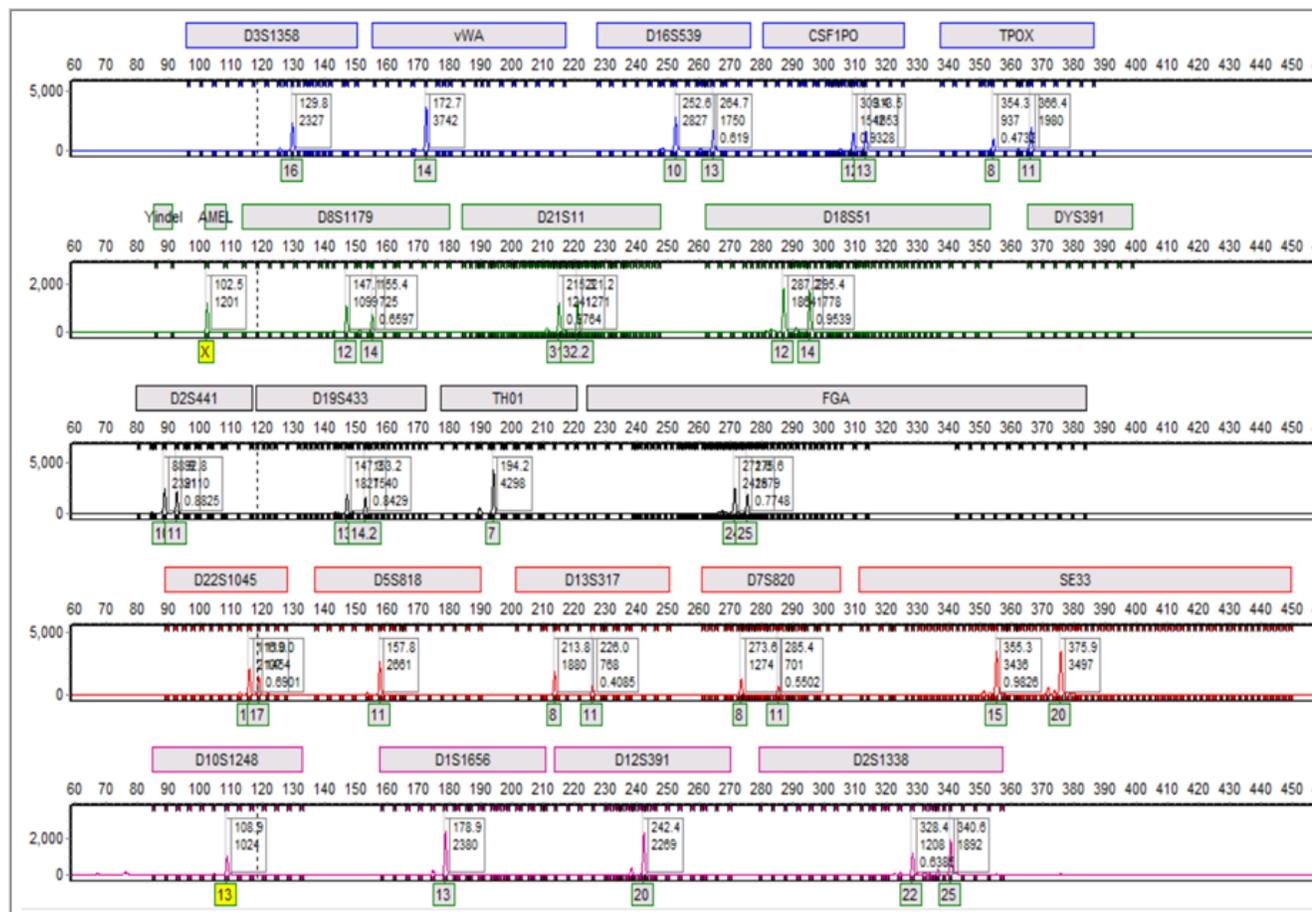


Figure 30 7.5 µL blood on glass sample run using the RapidINTEL™ Sample Cartridge. Two IHO flags are present (yellow peak labels) for single peaks below the stochastic threshold at Amelogenin and D10S1248 markers.

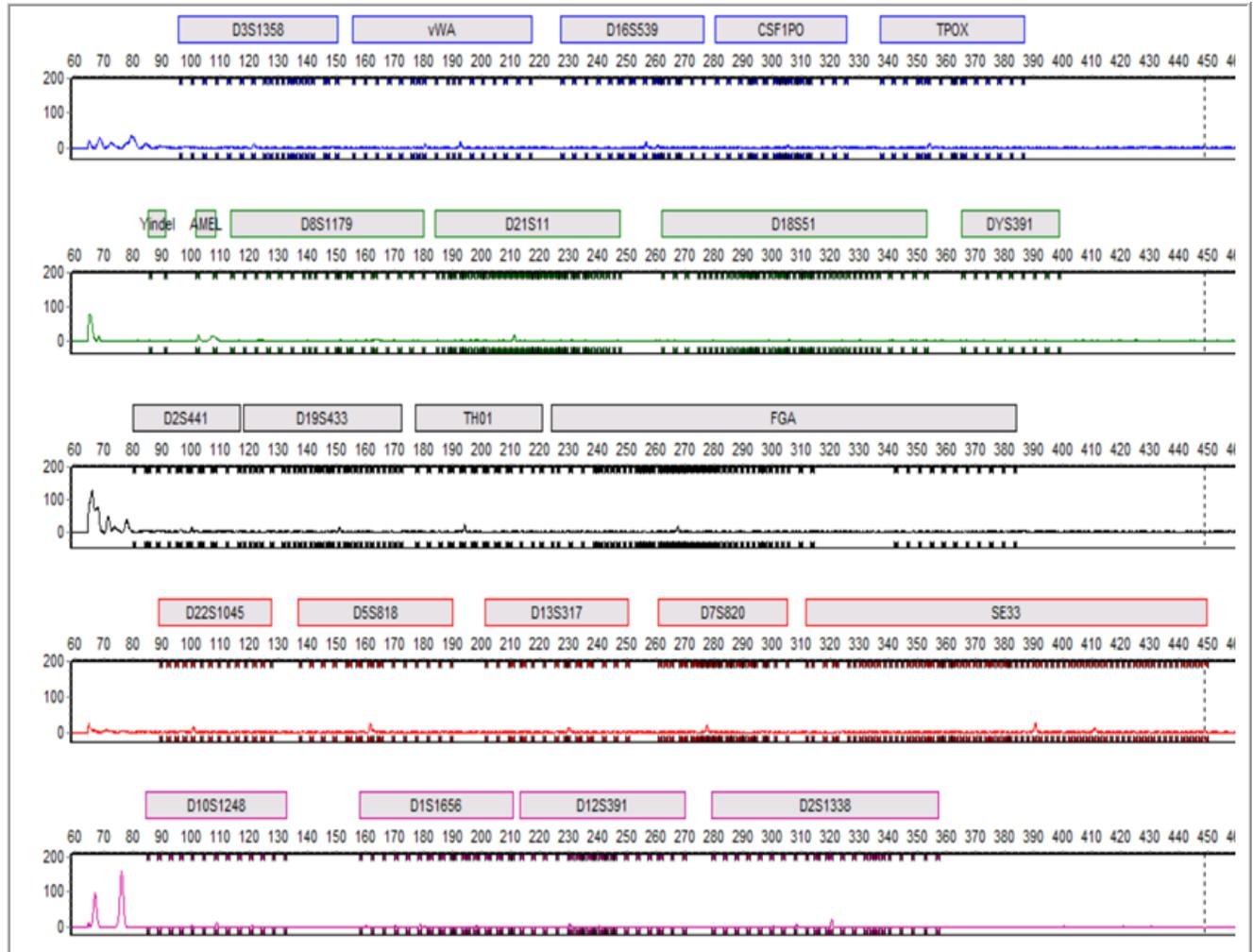


Figure 31 Water bottle swab run using the ACE GFE cartridge. No DNA was detected above the system thresholds.

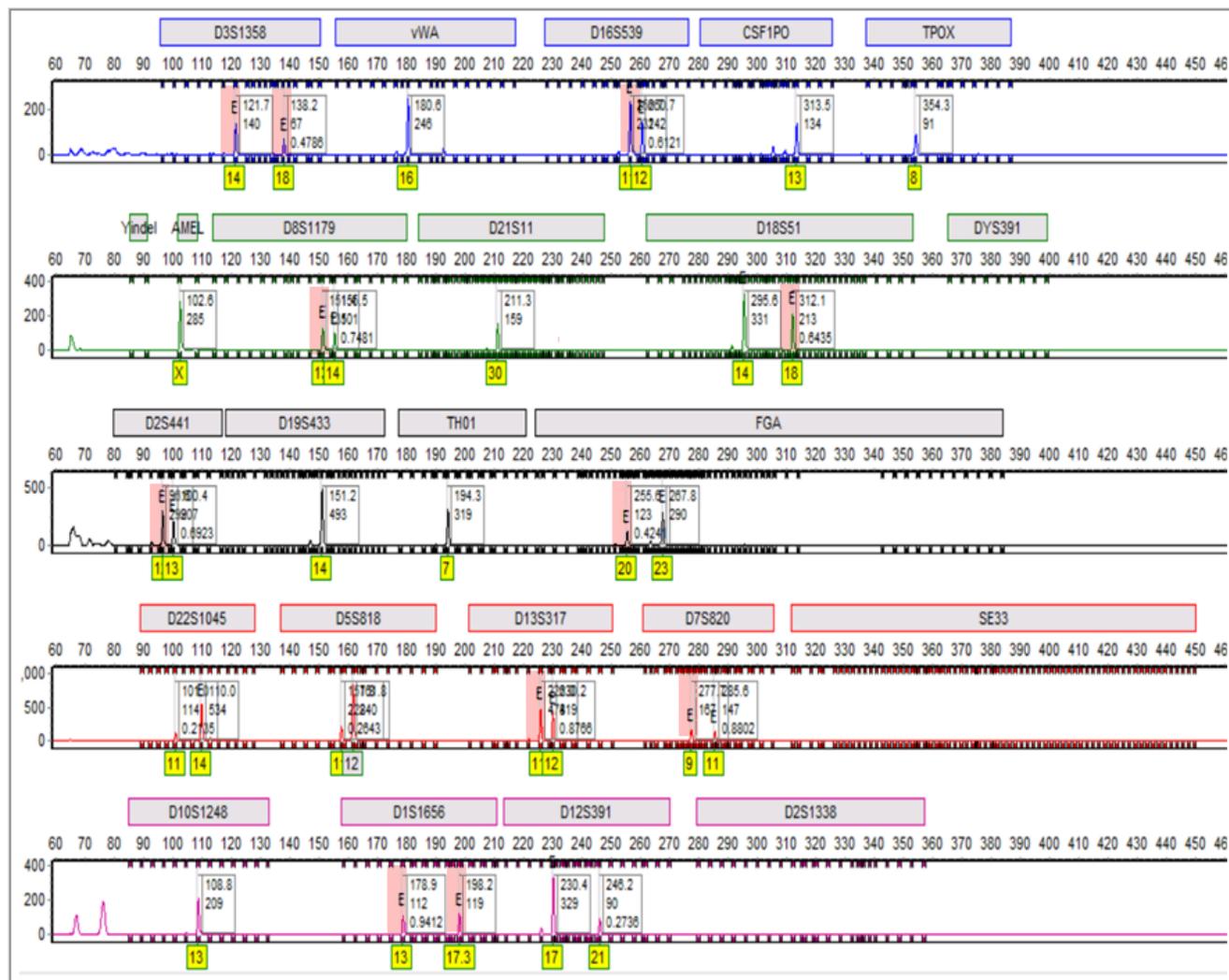


Figure 32 Water bottle swab run using the RapidINTEL™ Sample Cartridge. Multiple flags are present (yellow peak labels). "E" labels (highlighted in pink) are present in 9 markers where the minimum heterozygote intensity inconclusive flag (IHE) was overridden during secondary analysis.

## Conclusions

RapidINTEL™ Sample Cartridges that are run on RapidHIT™ ID System v1.1.3 can accurately analyze moderate- to high-DNA content samples. This workflow expands the capability of the system to allow analysis of blood and saliva samples. Samples that do not meet the validated system thresholds are appropriately identified during primary analysis. Any samples that do not pass primary analysis require manual secondary analysis before results can be reported. This workflow supports the collaboration of decentralized locations for automatic primary analysis and forensic laboratories for required secondary analysis.

---

**IMPORTANT!** The RapidINTEL™ Sample Cartridge is recommended for use with blood and saliva samples only. Epithelial touch samples were also tested, but successful results were not obtained.

---

The validation studies confirmed:

- 99% genotype concordance between samples run on the RapidINTEL™ Sample Cartridge and 3500xL instruments.
- Samples that contain peaks/markers that do not comply with the RapidINTEL™ system thresholds generate a  result (do not pass primary analysis).

---

**IMPORTANT!** System thresholds were set so that all questionable peaks/markers are flagged during primary analysis and require secondary analysis by a forensically trained analyst.

---

- Mixtures were accurately detected.
- Negative controls that are run after high-concentration samples show no reproducible contamination.
- For mock-casework samples, the number of unflagged, correct alleles after primary analysis on RapidINTEL™ Sample Cartridges was generally higher than the number of unflagged, correct alleles after primary analysis on ACE GFE cartridges.
- The number of correctly called peaks/markers that were identified during primary analysis indicate high system efficiency.
- Because of the increased sensitivity, the RapidINTEL™ Sample Cartridges generate more data than ACE GFE cartridges.

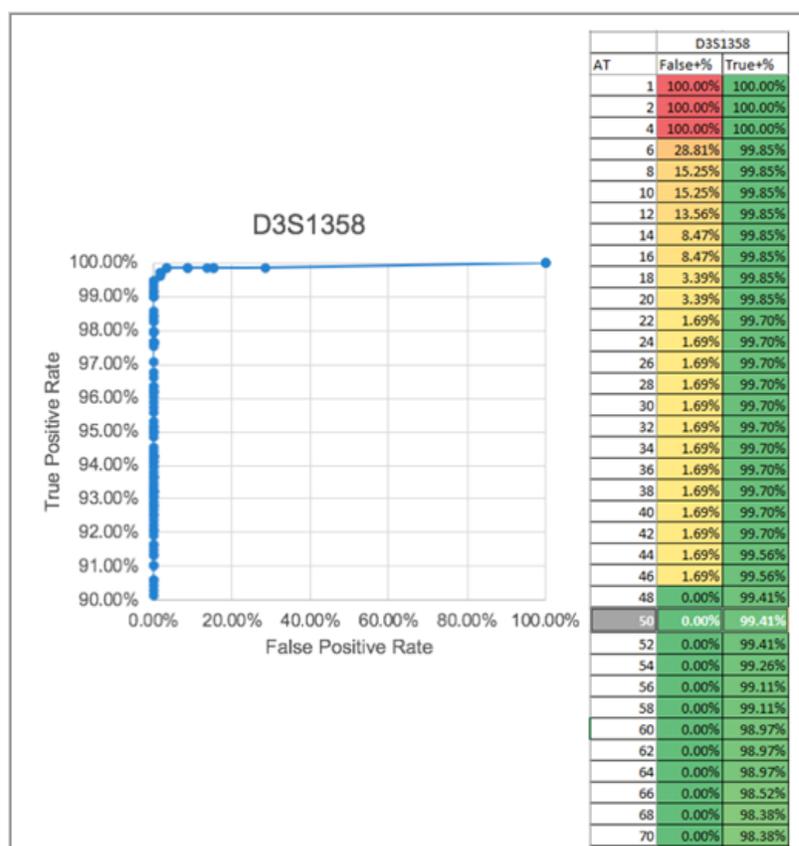
## Appendix A: RapidINTEL™ system threshold development data

### Analytical threshold

The analytical threshold is set to differentiate a true peak from baseline noise. There are multiple accepted approaches across the forensic DNA community to set analytical thresholds on Applied Biosystems™ 3130 and 3500 Series Genetic Analyzers (Bregu *et al.*, 2012, Butler 2015).

For this study, a receiver operating characteristic (ROC) curve was used to determine the RFU where false positive rate drops to 0.00% for peaks in bin (allele calls). The analytical and stochastic thresholds were set to 5 RFU and the stutter thresholds were set to 5%. Known artifact peaks were removed (Rakay *et al.*, 2012).

An analytical threshold of 50 RFU was determined to filter out ≥99% of noise peaks.



**Figure 33** ROC analysis of the D3S1358 marker where at an AT of 50 RFU, 99.41% of noise peaks are filtered.

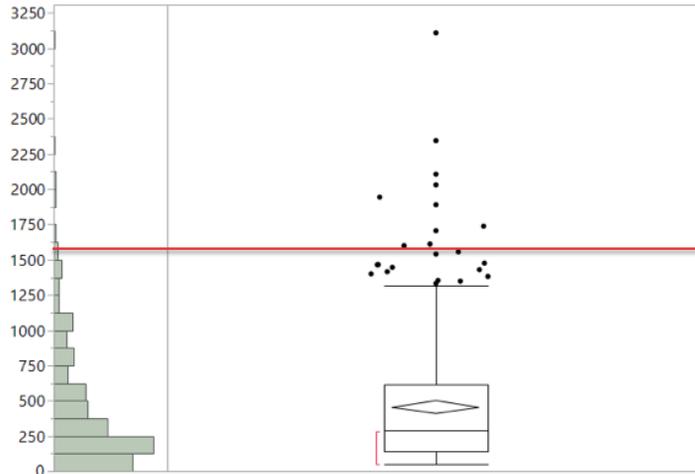
### Stochastic threshold

The stochastic threshold applies to low DNA input amounts where stochastic effects may be observed. Examples of stochastic effects are allele drop-out, allele drop-in, heterozygote allele imbalance, and elevated stutter. These effects occur more frequently in low-level DNA samples and may be exacerbated with increased PCR cycles.

If a peak exceeds the stochastic threshold, it is not typically affected by stochastic effects; therefore, heterozygote allele drop-out is unlikely. A single peak that is below the stochastic threshold may not be a true homozygote.

To determine the stochastic threshold, the verification sample set was analyzed at a 50 RFU analytical threshold. The RFU value at which 97% of false homozygotes were detected was selected for the stochastic threshold: 1,600 RFU for all non-Y markers; 50 RFU for the Y indel and DYS391 markers.

False homozygotes (where a one allele of a heterozygote pair is present above the AT at a marker) were evaluated in the verification sample set (Figure 34).



**Figure 34** Evaluation of false homozygotes in the verification sample set with the analytical threshold set at 50 RFU

### Minimum peak height ratio threshold (IMB flag)

Samples were analyzed with an analytical threshold of 50 RFU and a stochastic threshold of 1,600 RFU. Peak height ratio distribution was assessed (Figure 35).

The point at which 90% of heterozygote allele pairs would *not* be flagged was selected for minimum peak height ratio (40%).

As expected, when approaching stochastic (low DNA input) amplification levels, peak height ratios were lower.

Because the ploidy (PL) flag does not differentiate between haploid and diploid markers, the heterozygote imbalance flag threshold was set to 99% for Y indel and DYS391 to ensure flagging of two alleles at the markers.

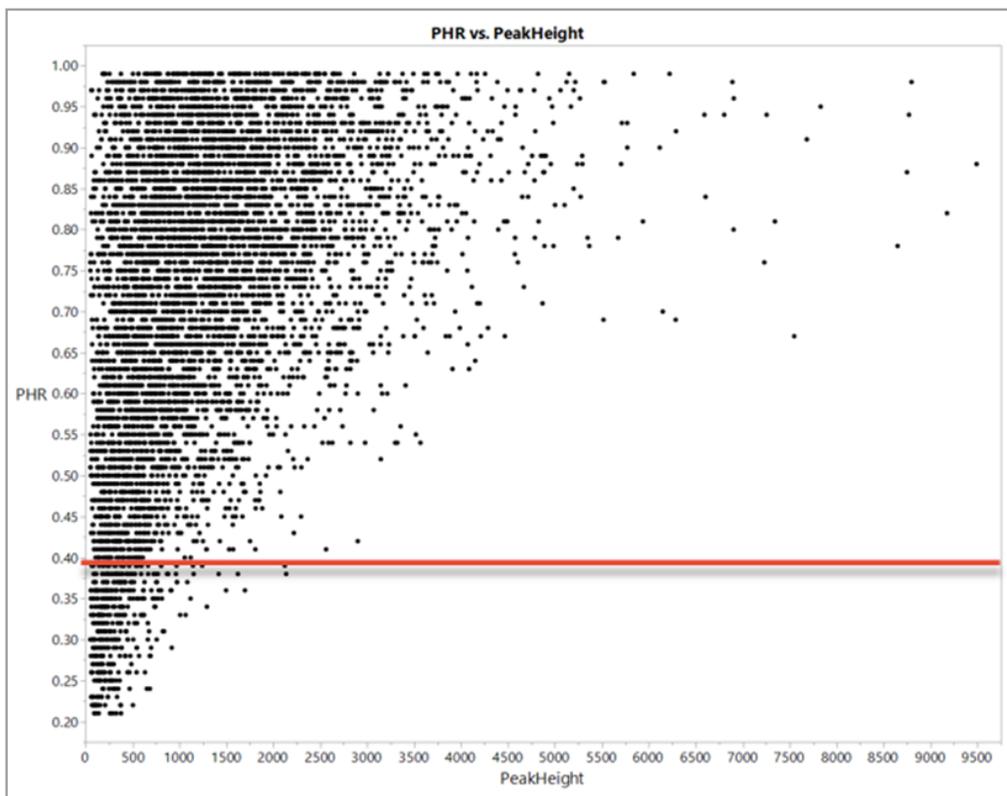


Figure 35 Peak height ratio distribution

**Minimum heterozygous peak intensity threshold (IHE flag)**

This threshold was calculated with the following formula to be 640 RFU for all markers:

$$\text{IHE flag threshold} = \text{minimum peak height ratio} \times \text{stochastic threshold}$$

This threshold designates the minimum RFU for both peaks in a marker. If both peaks also exceed the minimum peak height ratio (no IMB flag is triggered), the peaks can be confidently identified as a heterozygous pair.

In conjunction with the analytical threshold (which is set to detect low-level mixtures) the Inconclusive Heterozygous (IHE) flag threshold provides an additional level of confidence for heterozygous allele calls.

## Stutter filters

Stutter filters were based on the verification sample set that was analyzed with an analytical threshold of 50 RFU and without global or locus-specific filters. For each marker, the percentage of the stutter peaks to the allele peaks was averaged and the standard deviation (SD) was calculated. Stutter filters were set using the following calculation:

$$\text{Stutter filter \%} = (\text{average stutter peak height} + 4 \text{ SD}) \times 100$$

The stutter filter values were rounded up to the nearest whole number as seen in Table 20.

**Table 20** Stutter thresholds. When not indicated, the stutter threshold is -4 nucleotides from the allele peak.

Dye	Marker	Avg Stutter + 4SD (%)
6-FAM™	D3S1358	27
	vWA	25
	D16S539	25
	CSF1PO	22
	TPOX	16
VIC™	Y indel	21
	AMEL	21
	D8S1179	20
	D21S11	25
	D18S51	28
	DYS391	18
NED™	D2S441	16
	D19S433	29
	TH01	18
	FGA	27
TAZ™	D22S1045	34
	D5S818	26
	D13S317	18
	D7S820	18
	SE33	30
SID™	D10S1248	29
	D1S1656	26

Dye	Marker	Avg Stutter + 4SD (%)
SID™	D12S391	30
	D2S1338	31

### Locus-specific filter

An analytical threshold of 50 RFU was used to evaluate artifact peaks at each locus. A threshold of 21% (artifact to allele peak) filtered out 99% of noise/artifact peaks observed at each marker (Figure 36).

For the positive control, a locus-specific filter of 30% allows for a high-pass rate of the single-source, high-quality, high-quantity control DNA. The positive control is used primarily for genotype concordance and troubleshooting purposes.

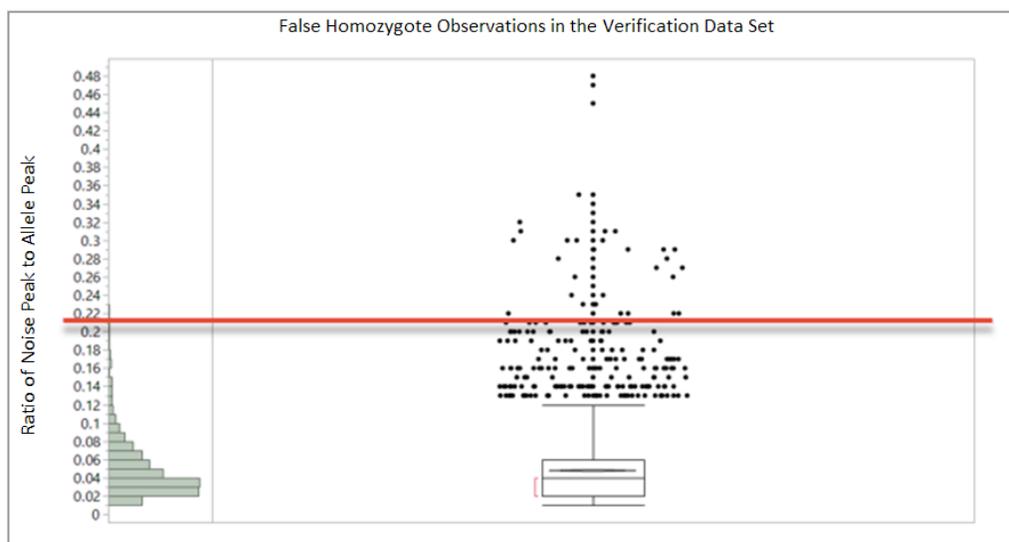


Figure 36 Locus-specific filters

### Ploidy flag (PL)

The ploidy flag (PL) is triggered if the number of peaks identified within a marker exceeds the maximum number of expected peaks in a single-source DNA profile. It is used to identify a mixture.

All markers (including Y indel and DYS391) are evaluated for PL.

The PL flag setting was set to 2; therefore, any marker with three peaks detected above the analytical threshold will trigger the PL flag.

## Appendix B: References

- RapidHIT™ ID System v1.0 User Guide Pub. No. MAN0018039 Rev A.0
- RapidLINK™ Software v1.0 User Guide Pub. No. MAN0018038 Rev A.0
- GeneMarker HID User Guide ([https://softgenetics.com/PDF/GeneMarkerHID\\_UserManual.pdf](https://softgenetics.com/PDF/GeneMarkerHID_UserManual.pdf)).
- Rakay, et al., "Maximizing allele detection: Effects of analytical threshold and DNA levels on rates of allele and locus drop-out.", *Forensic Sci Int Genet.* 2012 Dec;6(6):723–8.
- Butler, J.M.. (2015). *Advanced Topics in Forensic DNA Typing: Interpretation.* 10.1016/B978-0-12-405213-0.
- Bregu, J. , Conklin, D. , Coronado, E. , Terrill, M. , Cotton, R. W. and Grgicak, C. M. (2013), Analytical Thresholds and Sensitivity: Establishing RFU Thresholds for Forensic DNA Analysis, *J Forensic Sci*, 58: 120-129. doi:**10.1111/1556-4029.12008**.
- Mulero, J.J., Chang, C.W., and Hennessy, L.K. 2006. Characterization of N+3 stutter product in the trinucleotide repeat locus DYS392. *J. Forensic Sci.* 51:826–830.
- Scientific Working Group on DNA Analysis Methods (SWGDM). 2012. *Validation Guidelines for DNA Analysis Methods.* Available at [http://swgdam.org/SWGDAM\\_Validation\\_Guidelines\\_APPROVED\\_Dec\\_2012.pdf](http://swgdam.org/SWGDAM_Validation_Guidelines_APPROVED_Dec_2012.pdf). Accessed 29 July 2013.
- Walsh, P.S., Fildes, N.J., Reynolds, R. 1996. Sequence analysis and characterization of stutter products at the tetranucleotide repeat locus vWA. *Nucleic Acids Res.* 24:2807– 2812.

## Appendix C: Cartridge contents and storage

Contents	Cat. No.	Amount	Storage
RapidINTEL™ Sample Cartridge Kit	A43942	<ul style="list-style-type: none"> <li>• 50 RapidINTEL™ Sample Cartridges</li> <li>• 2 positive-control RapidINTEL™ Sample Cartridges</li> <li>• 2 negative-control RapidINTEL™ Sample Cartridges</li> </ul>	4–10°C Expires 6 months after the date of manufacture.
RapidINTEL™ Sample Cartridge Evaluation Kit	A439421	10 RapidINTEL™ Sample Cartridges	

**Table 21** RapidHIT™ ID ACE GlobalFiler™ Express 150 Sample Kit (Cat. No. A41841)

Contents	Amount	Storage
<b>Box 1</b>		
Primary Cartridge GlobalFiler™ Express <ul style="list-style-type: none"> <li>• Primary cartridge</li> <li>• 1 utility cartridge</li> </ul> The utility cartridge is used for primary cartridge replacement.	1 cartridge for 150 runs <sup>[1]</sup>	Room temperature (15–25°C) Expires 6 months after the date of manufacture.
<b>Box 2</b>		
Primary Cartridge GlobalFiler™ Express <ul style="list-style-type: none"> <li>• 1 gel cartridge</li> </ul> The gel cartridge is used for primary cartridge replacement. <ul style="list-style-type: none"> <li>• 1 GFE Control Cartridge (allelic ladder cartridge)</li> </ul>	1 gel cartridge 1 GFE Control Cartridge (allelic ladder cartridge)	4–10°C Expires 6 months after the date of manufacture.
Positive control cartridge	1 positive control cartridge	

<sup>[1]</sup> Primary cartridges can be ordered separately (Cat. No. A41841). Includes gel, utility, and GFE Control Cartridge [allelic ladder] cartridges.



Life Technologies Ltd | 7 Kingsland Grange | Woolston, Warrington WA1 4SR | United Kingdom  
For descriptions of symbols on product labels or product documents, go to [thermofisher.com/symbols-definition](https://www.thermofisher.com/symbols-definition).

The information in this guide is subject to change without notice.

**DISCLAIMER:** TO THE EXTENT ALLOWED BY LAW, THERMO FISHER SCIENTIFIC INC. AND/OR ITS AFFILIATE(S) WILL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, MULTIPLE, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING FROM THIS DOCUMENT, INCLUDING YOUR USE OF IT.

**Revision history:** Pub. No. MAN0018979

Revision	Date	Description
A.0	10 December 2019	Validation user bulletin for RapidINTEL™ Sample Cartridges on the RapidHIT™ ID System v1.1.3.

Important Licensing Information: These products may be covered by one or more Limited Use Label Licenses. By use of these products, you accept the terms and conditions of all applicable Limited Use Label Licenses.

TRADEMARKS: All trademarks are the property of Thermo Fisher Scientific and its subsidiaries unless otherwise specified.

©2019 Thermo Fisher Scientific Inc. All rights reserved.

[thermofisher.com/support](https://www.thermofisher.com/support) | [thermofisher.com/askaquestion](https://www.thermofisher.com/askaquestion)

[thermofisher.com](https://www.thermofisher.com)

**ThermoFisher**  
SCIENTIFIC

# QUALITY ASSURANCE STANDARDS FOR FORENSIC DNA TESTING LABORATORIES

## EFFECTIVE DATE:

These standards shall take effect July 1, 2020 and shall not be applied retroactively.

## 1. SCOPE AND APPLICABILITY

This document consists of definitions and standards. The standards are quality assurance measures that place specific requirements on the laboratory. Equivalent measures not outlined in this document may also meet the standard if determined sufficient through an accreditation process.

The term 'year' refers to calendar year in these standards. Also, when used in these standards, the terms 'review', 'approve', 'document', 'define', 'schedule', 'policy', 'procedure', 'program', 'appoint', 'notify', 'inform', 'authorize', or 'designate' are intended to require written documentation to demonstrate compliance. In order to demonstrate compliance with these standards for purposes of the audit and accreditation process, the laboratory shall have available objective proof of satisfying each standard.

The standards describe the quality assurance requirements that laboratories performing forensic DNA testing or utilizing the Combined DNA Index System (CODIS) shall follow to ensure the quality and integrity of the data generated by the laboratory. As it pertains to these standards, forensic DNA testing begins at sample extraction or direct amplification.

These standards are applicable to forensic DNA testing laboratories using Rapid DNA instruments/Systems on casework reference samples. The use of Rapid DNA instruments/Systems is not approved for use on forensic samples.

These standards also apply to vendor laboratories that perform forensic DNA testing in accordance with Standard 17. These standards do not preclude the participation of a laboratory, by itself or in collaboration with others, in research and development, on procedures that have not yet been validated.

## 2. DEFINITIONS

As used in these standards, the following terms shall have the meanings specified:

**Accreditation** is the formal recognition that a laboratory meets or exceeds a list of standards, including the FBI Director's Quality Assurance Standards, to perform specific tests. Accreditation is administered by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science

community in accordance with the provisions of the Federal DNA Identification Act (34 U.S.C. §12592) or subsequent laws.

**Accuracy** is the ability of a measurement to give results close to a true value.

**Administrative review** is an evaluation of the report and supporting documentation for consistency with laboratory policies and for editorial correctness.

**Analyst** (or equivalent role, position, or title as designated by the laboratory) is an employee or contract employee, that has successfully completed the laboratory's training requirements for casework sample analysis, passed a competency test, and has entered into a proficiency testing program according to these standards. This individual can conduct and/or direct the analysis of forensic samples, interpret data, reach conclusions, and generate reports.

**Analytical control** is a sample used to demonstrate that a method works correctly and to ensure the data are valid. See Positive amplification control, Positive sample control, Positive sequencing control, Negative amplification control, Negative sample control, Negative sequencing control, and Reagent Blank Control.

**Analytical documentation** is the documentation of procedural notes, controls, and instruments used; observations made; results of tests performed; and charts, graphs, photos, and other documentation generated which are used to support the analyst's conclusions.

**Analytical procedure** is an orderly, step-by-step process designed to ensure operational uniformity and to minimize analytical drift.

**Analytical threshold** is the minimum height requirement, determined through validation testing, at or above which detected peaks/signal can be reliably distinguished from background noise; peaks/signal at or above this threshold are generally not considered noise and are either artifacts or true alleles.

**Annual** is once per calendar year.

**Audit** is an on-site inspection used to evaluate, confirm, and/or determine the extent to which specified requirements are fulfilled.

**Audit team** is one or more individuals, including at least one auditor, that performs an inspection of a laboratory. At least one audit team member shall be or have been an analyst previously qualified in the laboratory's current DNA technologies and platforms.

**Auditor** is an individual who has successfully completed the FBI's DNA auditor training course.

**Binary method** is an approach for which there are only two values (possible or not possible) for each decision.

**Biochemistry** is the study of the nature of biologically important molecules in living systems, DNA replication and protein synthesis, and the quantitative and qualitative aspects of cellular metabolism.

**Casework CODIS administrator** (or equivalent role, position, or title as designated by the laboratory) is an employee of the laboratory responsible for administration and security of the laboratory's CODIS at a laboratory performing DNA analysis on forensic and casework reference samples. An alternate casework CODIS administrator must be designated by the laboratory as required by the NDIS operational procedures.

**Casework reference sample** is biological material (e.g., buccal swab, fingerprick, or blood draw) obtained directly from a known individual and used for purposes of comparison to forensic samples.

**Certified reference material** is a material for which values are obtained by a technically valid procedure and accompanied by, or traceable to, a certificate or other documentation which is issued by a certifying body (e.g., NIST).

**CODIS** is the Combined DNA Index System administered by the FBI. CODIS links DNA evidence obtained from crime scenes, thereby identifying serial criminals. CODIS also compares crime scene evidence to DNA profiles from offenders, thereby providing investigators with the identity of the putative perpetrator. In addition, CODIS contains profiles from missing persons, unidentified human remains, and relatives of missing persons. There are three levels of CODIS: the Local DNA Index System (LDIS), used by individual laboratories; the State DNA Index System (SDIS), used at the state level to serve as a state's DNA database containing DNA profiles from LDIS laboratories; and the National DNA Index System (NDIS), managed by the FBI as the nation's DNA database containing all DNA profiles uploaded by participating states.

**CODIS user** is an employee or contract employee who has login access to the CODIS (i.e., State or Local) system and is authorized to read, add, modify and/or delete DNA records in CODIS.

**Competency testing** is a test or series of tests (practical, written, and/or oral) designed to establish that an individual has demonstrated achievement of technical skills and met minimum standards of knowledge necessary to perform forensic DNA analysis.

**Competency** is the demonstration of technical skills and knowledge necessary to perform forensic DNA analysis successfully.

**Contamination** is the unintentional introduction of exogenous DNA into a sample or analytical control during DNA testing.

**Continuing education** is an educational activity (such as a class, lecture series, conference, seminar, or short course) that is offered by a recognized organization or individual that brings participants up-to-date in their relevant area of knowledge.

**Contract employee** is an individual, not in the employ of the government or vendor laboratory, that performs DNA typing and/or analytical support services for a NDIS participating laboratory. The person performing these services must meet the relevant qualifications for the equivalent position in the NDIS participating laboratory. A contract employee cannot serve as a casework CODIS administrator or technical leader and cannot be counted as a full-time qualified analyst for purposes of satisfying the definition of a laboratory. Employment of a contract employee by multiple NDIS participating laboratories and/or vendor laboratories shall be disclosed to all employing laboratories and shall only be permitted subject to approval by the technical leader of the NDIS participating laboratory for which the contract employee is performing DNA typing and/or analytical services.

**Corrective action plan** evaluates and remediates a nonconformity with the goal to identify, correct, and/or prevent reoccurrence of the nonconformity, when possible.

**Coursework** is an academic class officially recognized and taught through a college or university program in which the participating student successfully completed and received one or more credit hours for the class.

**Critical equipment or instruments** are those equipment/instruments whose accurate functionality directly affects the results of the analysis and requires calibration, certification, or performance check prior to use and periodically thereafter.

**Critical reagents** are those whose performance is vital to the success of the DNA testing and require testing on known samples before use on forensic or casework reference samples.

**Developmental validation** - See Validation.

**Differential amplification** is the unequal amplification of one target region or locus over another during the polymerase chain reaction.

**Disposition of evidence** is the documentation of the retention, return, or consumption of the evidence item(s) upon completion of DNA testing.

**DNA record** is a database record that includes the DNA profile as well as data required to manage and operate NDIS, i.e., the Originating Agency Identifier, which serves to identify the submitting agency; the Specimen Identification Number; and DNA personnel associated with the DNA profile analyses.

**DNA type** (also known as a DNA profile) is the genetic constitution of an individual at one or more defined locations (also known as loci) in the DNA.

- 1) A DNA type derived from nuclear DNA typically consists of one or two alleles at several loci (e.g., short tandem repeat loci).
- 2) The DNA type derived from mitochondrial DNA is a specific sequence of nucleotides at a given mitochondrial region(s). In human DNA typing, the DNA type derived from mitochondrial DNA is described in relation to the revised

Cambridge Reference Sequence (Nature Genetics [1999] 23:147).

**Electrophoresis detection system** is a platform that allows for the size separation of DNA molecules through a fluid or a gel under the influence of an electric field and the subsequent detection of the separated molecules by fluorescence or other means.

**Employee** is a person:

- 1) In the service of the applicable federal, state, or local government, subject to the terms, conditions, and rules of federal, state, or local employment and eligible for the federal, state, or local benefits of service; or
- 2) Formerly in the service of a federal, state, or local government who returns to service in the agency on a part-time or temporary basis.
- 3) For purposes of a vendor laboratory, an employee is a person in the service of a vendor laboratory and subject to the applicable terms, conditions, and rules of employment of the vendor laboratory.

**Evidence** is an item submitted for DNA testing and/or a derivative of an item as defined by the laboratory that is subject to a chain of custody.

**Expert System** is a software program or set of software programs designed to interpret single source DNA data in accordance with laboratory defined quality assurance rules and identify DNA data not satisfying laboratory defined quality assurance rules, without human intervention.

**FBI** is the Federal Bureau of Investigation, the federal agency authorized by the DNA Identification Act of 1994 to issue quality assurance standards governing forensic DNA testing laboratories and to establish and administer the National DNA Index System (NDIS).

**Forensic DNA analysis** (also referred to as Forensic DNA testing) is the process of isolation, detection, identification, and evaluation of biological evidence in criminal matters using DNA technologies.

**Forensic sample** is a biological sample originating from and associated with evidence from a crime scene. A sample associated with evidence from a crime scene may include a sample that has been carried away from the crime scene.

**Functional testing** is a process to confirm that a software performs the tasks as expected.

**Genetics** is the study of inherited traits, genotype/phenotype relationships, and population/species differences in allele and genotype frequencies.

**Guidelines** are a set of general principles used to provide direction and parameters for decision making.

**Inconclusive** is a determination that no inclusion or exclusion can be drawn from the comparison of a casework reference sample to a forensic sample. This could result from

statistical analyses that fail to provide sufficient support for an inclusion or exclusion. An inconclusive conclusion could be due to uninterpretable data or data determined by the laboratory as not suitable for comparisons.

**Integral component** is that portion of an academic course that is so significant and necessary to the understanding of the subject matter as a whole that the course would be considered incomplete without it.

**Internal validation** - See Validation.

**Interpretation Software** is a tool to assist the analyst in assessing the analyzed data by applying quality assurance rules, performing mixture deconvolution, and/or evaluating comparisons. Interpretation software may include probabilistic genotyping software or expert systems.

**Intimate sample** is a biological sample from an evidence item that is obtained directly from an individual's body; it is not unexpected to detect that individual's allele(s) in the DNA typing results.

**Known samples** are biological material whose identity or DNA type is established.

**Laboratory** is a facility

- 1) Employing at least two full-time employees who are qualified analysts; and
- 2) Having and maintaining the capability to perform the DNA analysis of forensic samples and/or casework reference samples at that facility.

**Laboratory support personnel** (or equivalent role, position, or title as designated by the laboratory) are employees or contract employees who perform laboratory support duties exclusive of analytical procedures on forensic or casework reference samples.

**Legacy** refers to a typing test kit, platform, or technology that is no longer in use by a laboratory.

**Legacy data** is data generated by a typing test kit, platform, or technology that is no longer in use by the laboratory that is used for the interpretation of DNA types.

**Method** is a combination of procedural steps used to perform a specific technical process. The method includes the validated steps, reagents, and critical instruments needed to perform the process or portion of a process. The same method may be conducted using different equipment (automated vs manual) when appropriately validated.

**Methodology** refers to the categories of methods used to perform a stage of a DNA typing technology or technologies. For example, methodologies for STR technology can include extraction, quantification, amplification, and detection.

**Modified Rapid DNA analysis** is the semi-automated (hands-free) process of developing a CODIS acceptable STR profile from a casework reference sample. The “swab in – profile out” process consists of automated extraction, amplification, separation, and detection without human intervention but requires an analyst to perform manual interpretation and technical review.

**Module** is an independent but interrelated part of software that performs a distinct function.

**Molecular biology** is the study of the theories, methods, and techniques used in the study and analysis of gene structure, organization, and function.

**Multi-laboratory system** is used to describe an organization that has more than one laboratory performing forensic DNA analysis.

**Negative amplification control** is an analytical control that is used to detect DNA contamination of the amplification reagents. This analytical control consists of only amplification reagents without the intentional addition of template DNA.

**Negative sample control** is an analytical control that is used to detect DNA contamination in Rapid DNA reagents and consumables.

**Negative sequencing control** is an analytical control that is used to detect DNA contamination of the sequencing reagents. This analytical control consists of only sequencing reagents without the intentional addition of template DNA. The negative amplification control can be used as the negative sequencing control.

**NIST** is the National Institute of Standards and Technology.

**Nonconformity** is not meeting, implementing, maintaining, or complying with one or more of the requirements of these standards or a laboratory’s procedures, policies, or other quality system documents.

**On-site visit** is a scheduled or unscheduled visit to the vendor laboratory work site by one or more representatives of an NDIS participating laboratory.

**Outsourcing** is the utilization of a vendor laboratory to provide DNA services in which the NDIS participating laboratory takes or retains ownership of the DNA data. Outsourcing does not require the existence of a contractual agreement or the exchange of funds.

**Ownership** is the process by which the responsibility for the products of forensic DNA analyses provided by a vendor laboratory may pass to an NDIS participating laboratory. It applies if any of the following will occur:

- 1) The NDIS participating laboratory will use any samples, extracts or materials from the vendor laboratory for the purposes of forensic DNA testing (e.g., a vendor laboratory prepares an extract that will be analyzed by the NDIS laboratory);

- 2) The NDIS participating laboratory will interpret the DNA data generated by the vendor laboratory;
- 3) The NDIS participating laboratory will issue a report describing or drawing conclusions on the results of the DNA analysis performed by the vendor laboratory; or
- 4) The NDIS participating laboratory will enter or search a DNA profile in CODIS from data generated by the vendor laboratory.

**Ownership review** is the technical review of outsourced DNA data required by Standard 17. This review is to be distinguished from the technical and administrative reviews required by Standard 12. For outsourced DNA data, the vendor laboratory is responsible for conducting the technical and administrative reviews required by Standard 12.

**Performance check** is a quality assurance measure to assess the functionality of laboratory critical equipment and instruments.

**Platform** is the type of analytical system utilized to generate DNA profiles, such as capillary electrophoresis, real-time gel and end-point gel instruments or systems.

**Policy** is an organization's high level plan for a course of action or to address a requirement.

**Polymerase Chain Reaction (PCR)** is an enzymatic process by which a specific region of DNA is replicated during repetitive cycles, which consist of the following:

- 1) Denaturation of the template;
- 2) Annealing of primers to complementary sequences at an empirically determined temperature; and
- 3) Extension of the bound primers by a DNA polymerase.

**Positive amplification control** is an analytical control that is used to determine if the PCR performed properly. This control consists of the amplification reagents and a known DNA sample.

**Positive sample control** is an analytical control that is used to determine if the Rapid DNA instrument/System is performing all steps of the process properly. This control consists of a known DNA sample.

**Positive sequencing control** is an analytical control that is used to determine if the sequencing performed properly. This control consists of the sequencing reagents and a known DNA sample. The positive amplification control can be used as the positive sequencing control.

**Precision** characterizes the degree of mutual agreement among a series of individual measurements, values, and/or results.

**Preferential amplification** is the unequal amplification of the two alleles present in a heterozygous locus during the polymerase chain reaction.

**Procedure** (protocol, standard operating procedure, or other equivalent) is a series of instructions to be followed in performing a specified task or under specific circumstances.

**Proficiency testing** is a quality assurance measure used to monitor performance and identify areas in which improvement may be needed. Proficiency tests may be classified as:

- 1) An internal proficiency test, which is produced by the agency undergoing the test.
- 2) An external proficiency test, which is a test obtained from a proficiency test provider accredited to the current applicable standard of the International Organization for Standardization and the applicable test is included on the proficiency test provider's scope of accreditation.

**Program** is a collection of policies, procedures, and/or instructions to fulfill a requirement.

**Qualified** is an adjective used to describe an individual who meets the requirements for the position, has successfully completed the laboratory's applicable training requirements, and is authorized to perform a specific task or role.

**Qualitative statement** is a description of the evidence (e.g., partial profile, mixture profile) or a conclusion of any comparisons that were performed without a statistical significance provided (e.g., source attribution, consistent with an intimate sample).

**Quality system** is the organizational structure, responsibilities, procedures, policies, and resources for implementing quality management.

**Quantitative PCR** is a method of determining the concentration of DNA in a sample by use of the polymerase chain reaction.

**Quantitative statement** is a conclusion that provides a statistical measure of the DNA profile (e.g., random match probability) or comparison performed (e.g., likelihood ratio).

**Rapid DNA analysis** is the fully automated (hands-free) process of developing a CODIS acceptable STR profile from a casework reference sample. The "swab in – profile out" process consists of automated extraction, amplification, separation, detection and allele calling without human intervention.

**Rapid DNA cartridge** is a preassembled set of reagents and other analytical components (such as typing test kit) designed for use in a Rapid DNA instrument/System for the extraction, amplification and/or separation of DNA samples.

**Rapid DNA instrument** is an automated device that carries out Rapid DNA analysis or modified Rapid DNA analysis used to develop a CODIS acceptable STR profile from a casework reference sample.

**Rapid DNA System** is the collection of components that together performs a Rapid DNA analysis consisting of a Rapid DNA instrument, the PCR STR typing test kit/Rapid DNA cartridge, and an integrated Expert System used to develop a CODIS acceptable STR profile from a casework reference sample.

**Reagent** is a substance or mixture of substances used in the analysis process to detect, measure, produce, or interact with other substances.

**Reagent blank control** is an analytical control that is used to monitor contamination from extraction to DNA typing results and contains no intentionally added template DNA.

**Regression testing** is the process of testing an updated software program to confirm that modifications or new functionality do not unacceptably alter or terminate a desired functionality that behaved correctly before the change was implemented.

**Reinterpretation** is the reassessment of legacy data that may change the previously documented results. This may be due to a reevaluation of any of the allele calls or genotype calls [to include potential allelic drop-out], removal of alleles (or entire loci) from statistical estimates, or a change in the assumptions.

**Reliability testing** is the process of testing a software program beyond its functional aspects to ensure it works appropriately in the laboratory environment. This may include testing multi-user or multi-site scenarios, direct-access and network/server-access scenarios, and interaction with other software programs.

**Review** is an evaluation of documentation to check for consistency, accuracy, completeness, and compliance.

**Second agency** is an entity or organization external to and independent of the laboratory.

**Semi-annual** is used to describe an event that takes place two times during one calendar year, with the first event taking place in the first six months of that year and the second event taking place in the second six months of that year, and where the interval between the two events is at least four months and not more than eight months.

**Sensitivity studies** (for the purposes of Standard 8.3) are used to assess the ability to obtain reliable results from a range of DNA quantities, to include the upper and lower limits of the assay.

**Sensitivity studies** (for the purposes of Standard 8.8) are used to assess the ability of the system to reliably determine the presence of a contributor's DNA over a broad variety of evidentiary typing results (to include mixtures and low-level DNA quantities).

**Service** (for the purposes of Standard 10) is the performance of adjustments or specified procedures by the user, manufacturer, or other service personnel in order to ensure the intended performance of instruments and equipment.

***Specificity studies*** (for the purposes of Standard 8.3) are used to assess the ability to detect genetic information from non-targeted species (e.g., detection of microbial DNA in a human assay). The detection of genetic information from non-targeted species does not necessarily invalidate the use of the assay, but may help define the limits of the assay.

***Specificity studies*** (for the purposes of Standard 8.8) are used to evaluate the ability of the system to provide reliable results over a broad variety of evidentiary typing results (to include mixtures and low-level DNA quantities).

***Stochastic threshold*** is the peak height or signal magnitude value, determined through validation studies, below which it is reasonable to assume that, at a given locus, allelic dropout of a sister allele in a heterozygous pair may have occurred.

***Technical leader*** (or equivalent role, position, or title as designated by the laboratory) is an employee who is accountable for the technical operations of the laboratory and who is authorized to initiate, suspend, and resume laboratory operations.

***Technical review*** is an evaluation of reports, notes, data, and other documents to ensure there is an appropriate and sufficient basis for the scientific conclusions.

***Technical reviewer*** is an employee or contract employee who is a current or previously qualified analyst that performs a technical review of, and is not an author of, the applicable report or its contents.

***Technician*** (or equivalent role, position, or title as designated by the laboratory) is an employee or contract employee who performs analytical procedures on forensic samples or casework reference samples under the direction of a qualified analyst. Technicians do not interpret data to reach conclusions on typing results or prepare final reports.

***Technology*** is used to describe the type of forensic DNA analysis performed in the laboratory, such as RFLP, STR, YSTR, XSTR, SNP, microhaplotypes or mitochondrial DNA.

***Test kit*** is a preassembled set of reagents (or laboratory assembled equivalent) that allows the user to conduct a specific DNA extraction, quantification, or amplification method. A laboratory assembled equivalent may be referred to as a test system.

***Typing test kit*** is a preassembled set of reagents (or laboratory assembled equivalent) that is used to generate a DNA type.

***Underlying scientific principle*** is a rule concerning a natural phenomenon or function that is a part of the basis used to proceed to more detailed scientific functions.

**Uninterpretable** is a determination that DNA data cannot be interpreted (e.g., due to poor or limited data quality, data that fail to meet laboratory quality requirements). Uninterpretable data may result in an inconclusive conclusion.

**Validation** is a process by which a method is evaluated to determine its efficacy and reliability for forensic casework analysis and includes the following:

- 1) Developmental validation, which is the acquisition of test data and determination of conditions and limitations of a new or novel DNA method for use on forensic samples.
- 2) Internal validation, which is an accumulation of test data within the laboratory to demonstrate that established methods and procedures perform as expected in the laboratory.

**Vendor laboratory** is a governmental or private laboratory that provides DNA analysis services to another laboratory or agency and does not take ownership of the DNA data for purposes of entry into CODIS.

**Work product** is the material that is generated as a function of analysis that is not subject to a chain of custody.

### **3. QUALITY ASSURANCE PROGRAM**

STANDARD 3.1 The laboratory shall establish, follow, and maintain a documented quality system that is appropriate to the testing activities and is equivalent to, or more stringent than, what is required by these standards.

3.1.1 The quality system shall be documented in a manual that includes or references the following elements:

- 3.1.1.1 Goals and objectives
- 3.1.1.2 Organization and management
- 3.1.1.3 Personnel
- 3.1.1.4 Training
- 3.1.1.5 Facilities and evidence control
- 3.1.1.6 Validation
- 3.1.1.7 Analytical procedures
- 3.1.1.8 Equipment

- 3.1.1.9 Reports
- 3.1.1.10 Review
- 3.1.1.11 Proficiency testing
- 3.1.1.12 Corrective action
- 3.1.1.13 Audits
- 3.1.1.14 Professional development
- 3.1.1.15 Outsourcing ownership

3.1.2 Any document referenced within the quality manual shall be available on-site or be readily accessible.

**STANDARD 3.2** The laboratory shall have and follow a policy regarding document retention that specifically addresses proficiency tests, corrective action, audits, training records, continuing education, case files, and court testimony monitoring.

**STANDARD 3.3** The quality system as applicable to DNA shall be reviewed annually independent of the audit required by Standard 15. The review of the quality system shall be completed under the direction of the technical leader. The quality system review shall be approved by the technical leader.

**STANDARD 3.4** The laboratory shall annually review case files determined by the technical leader to be a representative sample of the cases worked. This review of case files shall be independent of an external audit conducted under Standard 15. The scope of the review shall be defined prior to each annual review and shall be approved by the technical leader.

## **4. ORGANIZATION AND MANAGEMENT**

**STANDARD 4.1** The laboratory shall:

- 4.1.1 Have a managerial staff with the authority and resources needed to discharge their duties and meet the requirements of the standards in this document.
- 4.1.2 Have a technical leader who is accountable for the technical operations. Multi-laboratory systems shall have at least one technical leader.
- 4.1.3 Have a casework CODIS administrator who is accountable for CODIS on-site at each individual laboratory facility utilizing CODIS.

4.1.4 Have at least two full-time employees who are qualified analysts.

4.1.5 Specify and document the responsibility, authority, and interrelation of all personnel who manage, perform, or verify work affecting the validity of the DNA analysis.

4.1.6 Have and follow a documented contingency plan that is approved by laboratory management if the technical leader position is vacated or if the number of qualified analysts falls below two full-time employees who are qualified analysts.

STANDARD 4.2 The laboratory shall have a policy that defines either the date of hire/appointment/promotion or the date of qualification to be used by the laboratory for determining the applicable version of the standards for education, experience and training requirements.

## **5. PERSONNEL**

STANDARD 5.1 Laboratory personnel shall have the education, training, and experience commensurate with the examination and testimony provided.

5.1.1 The laboratory shall have a written job description for personnel, that may be augmented by additional documentation, which defines responsibilities, duties, and skills.

5.1.2 The laboratory shall maintain records on the relevant qualifications, training, skills, and experience of the technical personnel.

STANDARD 5.2 The technical leader shall be a full-time employee of the laboratory or multi-laboratory system and shall meet the following qualifications:

5.2.1 Minimum educational requirements: The technical leader of a laboratory shall have, at a minimum, a Master's degree in a biology-, chemistry-, or forensic science-related area and shall have successfully completed 12 semester or equivalent credit hours from a combination of undergraduate and graduate coursework covering the following subject areas: biochemistry, genetics, molecular biology, and statistics or population genetics.

5.2.1.1 The 12 semester or equivalent credit hours shall include at least one graduate level course registering three or more semester or equivalent credit hours.

5.2.1.2 The specific subject areas listed in Standard 5.2.1 shall constitute an integral component of any coursework used to demonstrate compliance with this standard.

5.2.1.3 Individuals who have completed coursework with titles other than those listed in Standard 5.2.1 shall demonstrate compliance with this standard through a combination of pertinent materials such as a syllabus, letter from the instructor, or other document that supports the course content.

5.2.1.4 If the degree requirements of Standard 5.2.1 were waived by the American Society of Crime Laboratory Directors (ASCLD) in accordance with criteria approved by the FBI Director, such a documented waiver shall be permanent and portable.

5.2.2 Minimum experience requirements: Any technical leader appointed prior to July 1, 2009, shall have three years of forensic DNA laboratory experience obtained at a laboratory where forensic DNA testing was conducted for the identification and evaluation of biological evidence in criminal matters. Any technical leader appointed on or after July 1, 2009, shall have a minimum of three years of human DNA (current or previous) experience as a qualified analyst on forensic samples.

5.2.3 Any technical leader appointed on or after July 1, 2020 shall be a currently or previously qualified analyst in each technology utilized in the laboratory, or have documented training in each technology utilized in the laboratory within one year of appointment.

5.2.4 The technical leader shall have previously completed or will successfully complete the FBI's DNA auditor training course within one year of appointment.

5.2.5 The technical leader shall have the following authority and minimum responsibilities:

5.2.5.1 Oversee the technical operations of the laboratory.

5.2.5.2 Authority to initiate, suspend, and resume technical operations for the laboratory or an individual.

5.2.5.3 Evaluate and approve all validations and new or modified methods used by the laboratory.

5.2.5.4 Review the training records for newly qualified analysts, technicians and technical reviewers and approve their qualifications prior to independent casework analysis. Review, verify, and approve the academic transcripts for newly qualified analysts and technical reviewers.

5.2.5.5 Approve the technical specifications for outsourcing agreements.

5.2.5.6 Review internal and external DNA Audit documents and, if applicable, approve corrective action(s).

5.2.5.7 Review, on an annual basis, the procedures of the laboratory.

5.2.5.8 Review and approve the training, quality assurance, and proficiency testing programs in the laboratory.

5.2.5.9 Review potential conflicts of interest when contract employees are employed by multiple NDIS participating and/or vendor laboratories.

5.2.6 The technical leader shall be accessible to the laboratory to provide on-site, telephone, or electronic consultation as needed. A multi-laboratory system may have one technical leader over a system of separate laboratory facilities. For multi-laboratory systems, the technical leader shall conduct and document a site visit to each laboratory at least semi-annually.

5.2.7 Newly appointed technical leaders shall be responsible for the review of the following within one year of appointment:

5.2.7.1 Validation studies and analytical procedures currently used by the laboratory; and

5.2.7.2 Educational and training records of currently qualified analysts and technical reviewers.

**STANDARD 5.3** The casework CODIS administrator shall be an employee of the laboratory and meet the following qualifications:

5.3.1 Minimum educational requirements: The casework CODIS administrator shall meet the education requirements for an analyst as defined in Standard 5.4. A casework CODIS administrator appointed prior to July 1, 2020 shall be deemed to have satisfied the minimum educational requirements; satisfaction of these minimum educational requirements shall be applicable to the specific laboratory by which the casework CODIS administrator is employed by prior July 1, 2020 and shall not be portable.

5.3.2 Minimum experience requirements: A casework CODIS administrator shall be a current or previously qualified analyst as defined in Standard 5.4 with documented mixture interpretation training. A casework CODIS administrator appointed prior to July 1, 2009 who is not or has never been a qualified analyst (with documented training in mixture interpretation) shall be deemed to have satisfied the minimum experience requirements upon completion of FBI sponsored CODIS training; satisfaction of these minimum requirements shall be applicable to the specific laboratory the casework CODIS administrator is employed by prior to July 1, 2009 and shall not be portable.

5.3.3 Minimum CODIS training requirements: The casework CODIS administrator shall successfully complete the FBI-sponsored training in CODIS software within

six months of assuming CODIS casework administrator duties if the administrator had not previously completed such training. The casework CODIS administrator shall successfully complete the FBI's DNA auditor training course within one year of assuming his/her administrator duties if the administrator had not previously completed such training.

5.3.4 The casework CODIS administrator shall have the following minimum responsibilities:

5.3.4.1 Administer the laboratory's local CODIS network.

5.3.4.2 Schedule and document the CODIS computer training of casework analysts.

5.3.4.3 Ensure that the security of data stored in CODIS is in accordance with state and/or federal law and NDIS operational procedures.

5.3.4.4 Ensure that the quality of data stored in CODIS is in accordance with state and/or federal law and NDIS operational procedures.

5.3.4.5 Ensure that matches are dispositioned in accordance with NDIS operational procedures.

5.3.5 The casework CODIS administrator shall be authorized to terminate an analyst's or laboratory's participation in CODIS until the reliability and security of the computer data can be assured in the event an issue with the data is identified.

5.3.6 A laboratory shall not upload DNA profiles to NDIS in the event that the casework CODIS administrator position is unoccupied.

**STANDARD 5.4** The analyst shall be an employee or contract employee of the laboratory and meet the following qualifications:

5.4.1 Minimum educational requirements: The analyst shall have a bachelor's (or its equivalent) or an advanced degree in a biology-, chemistry-, or forensic science-related area and shall have successfully completed coursework (graduate or undergraduate level) covering the following subject areas: biochemistry, genetics, and molecular biology. Any analyst hired/appointed/promoted or qualified (as defined by the laboratory per Standard 4.2) prior to July 1, 2020, shall have coursework and/or training in statistics and/or population genetics as it applies to forensic DNA analysis. Any analyst hired/appointed/promoted or qualified (as defined by the laboratory pursuant to Standard 4.2) on or after July 1, 2020, shall have successfully completed coursework covering statistics and/or population genetics.

5.4.1.1 The specific subject areas listed in Standard 5.4.1 shall be an integral component of any coursework for compliance with this standard.

5.4.1.2 Analysts appointed or hired on or after July 1, 2009 shall have a minimum of nine cumulative semester hours or equivalent that cover the required subject areas of biochemistry, genetics, and molecular biology.

5.4.1.3 Analysts who have completed coursework with titles other than those listed in 5.4.1 above shall demonstrate compliance with this standard through a combination of pertinent materials, such as a syllabus, letter from the instructor, or other document that supports the course content. The technical leader shall approve compliance with this standard.

5.4.2 Minimum experience requirements: The analyst shall have six months of forensic human DNA laboratory experience. If prior forensic human DNA laboratory experience is accepted by a laboratory, the prior experience shall be documented and augmented by additional training, as needed. The analyst shall successfully complete the required training.

STANDARD 5.5 The technical reviewer shall be an employee or contract employee of the laboratory. The technical reviewer shall meet the education and experience requirements in Standard 5.4 and shall meet the following:

5.5.1 A current or previously qualified analyst.

5.5.2 Successful completion of documented training.

STANDARD 5.6 The technician shall be an employee or contract employee of the laboratory and shall successfully complete the laboratory's documented training program.

STANDARD 5.7 The technical leader shall verify and approve the education, to include a review of academic transcripts, of each analyst and technical reviewer.

## **6. TRAINING**

STANDARD 6.1 The laboratory shall have a training program documented in a training manual for qualifying analysts and technicians. The training program shall:

6.1.1 Address all DNA analytical, interpretation, and/or statistical procedures used in the laboratory.

6.1.2 Include practical exercises encompassing the examination of a range of samples routinely encountered in casework.

6.1.3 Teach and assess the technical skills and knowledge required to perform DNA analysis.

6.1.3.1 The training program for analysts shall include the skills and knowledge required to conduct a technical review.

6.1.4 Include an assessment of oral communication skills and/or a mock court exercise.

6.1.5 Include requirements for competency testing.

STANDARD 6.2 The technical leader shall approve any modifications to an analyst's, technical reviewer's, technician's, or laboratory support personnel's required training based on the documented assessment of the individual's previous training and experience.

STANDARD 6.3 All analyst/technician(s), regardless of previous experience, shall successfully complete competency testing covering the routine DNA methods, interpretation, and/or statistical procedures that the analyst/technician will perform prior to participating in independent casework.

6.3.1 Competency testing for a new analyst shall include a practical component, and written and/or oral components.

6.3.2 Competency testing for a new technician shall include a practical component.

STANDARD 6.4 For an analyst or technician, currently or previously qualified within the laboratory, to be qualified in a new or additional method, the laboratory shall teach and assess the technical skills and knowledge required to perform the additional method.

6.4.1 Before the use of a new or additional method on forensic samples or casework reference samples, the analyst and/or technician shall successfully complete competency testing to the extent of his/her participation in casework analyses. The competency testing shall include a practical component.

STANDARD 6.5 For an analyst, currently or previously qualified within the laboratory, to be qualified to interpret data and generate reports for a new or additional technology, typing test kit, platform, or interpretation software, the laboratory shall teach and assess the technical skills and knowledge required to interpret data, reach conclusions, and generate reports using the additional technology, typing test kit, platform, or interpretation software.

6.5.1 Before the use of a new or additional technology, typing test kit, platform or interpretation software on forensic samples or casework reference samples, the analyst shall successfully complete competency testing using the additional technology, typing test kit, platform or interpretation software to the extent of his/her participation in casework analyses. The competency testing shall include a practical component.

STANDARD 6.6 A technical reviewer, who is not currently qualified as an analyst in the laboratory, shall receive training on the case notes, data analysis, interpretation, and reporting criteria for any method, technology, typing test kit, platform, or interpretation software or the legacy technology, typing test kit, platform and/or interpretation software on which they were not previously qualified as an analyst in the laboratory.

6.6.1 The technical reviewer shall successfully complete competency testing before completing a technical review of data and/or reports using the additional method, technology, typing test kit, platform or interpretation software used in casework analyses.

6.6.1.1 For a technical reviewer who is a contract employee conducting reviews for an NDIS participating laboratory, the competency testing shall be administered by the NDIS participating laboratory.

STANDARD 6.7 For an analyst to be qualified in reinterpretation of legacy data, for which they were not previously qualified within the laboratory, the analyst shall demonstrate the technical skills and knowledge required to interpret data, reach conclusions, and generate reports in the legacy technology, typing test kit, and/or platform.

6.7.1 The analyst shall successfully complete competency testing in the legacy technology, typing test kit, and/or platform to the extent of his/her participation in casework analyses. The competency testing shall include practical components of reinterpretation.

STANDARD 6.8 The laboratory shall have and follow procedures for maintaining or reestablishing the technical skills and knowledge of analysts and technical reviewers who reinterpret legacy data for which they are qualified or previously qualified and whose external proficiency testing does not include a legacy technology, typing test kit or platform.

6.8.1 The technical leader shall review the documentation of an analyst's or technical reviewer's maintenance or reestablishment of the technical skills and knowledge and authorize the analyst or technical reviewer to reinterpret legacy data for no more than a two year period.

STANDARD 6.9 The technical leader shall review the training records for the analyst, technician, and/or technical reviewer and approve his/her qualifications prior to independent casework responsibilities.

STANDARD 6.10 The analyst, technician, and/or technical reviewer shall be authorized to independently perform assigned job responsibilities and the date(s) shall be documented.

STANDARD 6.11 Laboratory support personnel shall have documented training specific to their job function(s).

STANDARD 6.12 The laboratory shall have and follow a policy for addressing retraining of personnel when necessary. The technical leader shall be responsible for evaluating the need for and assessing the extent of retraining. The retraining plan shall be approved by the technical leader.

6.12.1 The individual shall successfully complete competency testing prior to his/her return to participation in casework analyses. This competency testing shall include a practical component.

STANDARD 6.13 The laboratory shall maintain records on the training, including successful completion of competency testing, of the laboratory personnel.

## **7. FACILITIES AND EVIDENCE CONTROL**

STANDARD 7.1 The laboratory shall have a facility that is designed to ensure the integrity of the analyses and the evidence.

7.1.1 The laboratory shall have secure, controlled access areas for evidence storage.

7.1.2 Except as provided in Standard 7.1.3.1, techniques performed prior to PCR amplification such as evidence examinations, DNA extractions, and PCR setup shall be conducted at separate times or in separate spaces from each other.

7.1.3 Except as provided in Standard 7.1.3.1, amplified DNA product, including real time PCR, shall be generated, processed, and maintained in a room(s) separate from the evidence examination, DNA extractions, and PCR setup areas. The doors between rooms containing amplified DNA and other areas shall remain closed except for passage.

7.1.3.1 A Rapid DNA instrument/System used for processing casework reference samples shall be maintained in rooms outside of evidence examination areas or those containing amplified DNA.

STANDARD 7.2 The laboratory shall have and follow procedures for laboratory security.

7.2.1 Access to the laboratory shall be controlled and limited in a manner to prevent access to the operational areas by unauthorized personnel. All exterior entrance/exit points require security controls that limit entry and access into the operational areas. The distribution of all keys, combinations, etc., shall be documented and limited to the personnel designated by laboratory management.

STANDARD 7.3 The laboratory shall have and follow a documented evidence control program to ensure the integrity of physical evidence.

7.3.1 Evidence shall be marked with a unique identifier on the evidence package. The laboratory shall clearly define what constitutes evidence and what constitutes work product. The laboratory shall have and follow a method to distinguish each sample throughout processing.

7.3.2 Chain of custody for all evidence shall be documented and maintained in written, printed or electronic format. The chain of custody shall include the signature, initials, or electronic equivalent of each individual receiving or transferring the evidence, the corresponding date for each transfer, and the evidentiary item(s) transferred.

7.3.3 The laboratory shall have and follow procedures that address handling and preserving the integrity of evidence and work product designed to minimize loss, contamination, and/or deleterious change.

7.3.3.1 The laboratory shall have and follow a policy or procedure for securing evidence and work product in progress.

7.3.3.2 The laboratory shall have and follow a policy or procedure for properly sealing evidence.

STANDARD 7.4 The laboratory shall have a policy on sample consumption.

7.4.1 Where possible, the laboratory shall retain or return a portion of the evidence sample or extract.

STANDARD 7.5 The laboratory shall have and follow a policy for the disposition of evidence.

## **8. VALIDATION**

STANDARD 8.1 The laboratory shall use validated methods for DNA analyses.

STANDARD 8.2 Developmental validation shall precede the implementation of any new methods used for forensic DNA analysis.

8.2.1 Developmental validation studies shall include, where applicable, characterization of the genetic marker, species specificity, sensitivity studies, stability studies, case-type samples, population studies, mixture studies, precision and accuracy studies, and PCR-based studies. PCR-based studies include reaction conditions, assessment of differential and preferential amplification, effects of multiplexing, assessment of appropriate controls, and product detection studies. All validation studies shall be documented.

8.2.2 Peer-reviewed publication of the underlying scientific principle(s) of a method shall be required.

**STANDARD 8.3** Except as provided in Standard 8.3.1.1, internal validation of all manual and robotic methods shall be conducted by each laboratory with the appropriate sample number and type to demonstrate the reliability and potential limitations of the method.

8.3.1 Internal validation studies shall include as applicable: known and non-probative evidence samples or mock evidence samples, precision and accuracy studies, sensitivity and stochastic studies, mixture studies, and contamination assessment studies.

8.3.1.1 Internal validation data may be shared by all locations in a multi-laboratory system. The summary of the shared validation data shall be available at each site. Each laboratory in a multi-laboratory system shall complete, document and maintain applicable site-specific precision, sensitivity, and contamination assessment studies.

8.3.2 Internal validation shall define quality assurance parameters and interpretation guidelines, including, as applicable, guidelines for mixture interpretation and the application of appropriate statistical calculations.

8.3.2.1 Mixture interpretation validation studies shall include samples with a range of the number of contributors, template amounts, and mixture ratios expected to be interpreted in casework.

8.3.3 Internal validation studies shall be conducted prior to implementing a change in platform instrument model or typing test kit.

8.3.4 Internal validation studies shall be documented and summarized. Internal validation shall be reviewed and approved by the technical leader prior to implementing a procedure for forensic applications.

**STANDARD 8.4** Newly validated DNA methods (from amplification through characterization), typing test kit, or platform instrument model shall be checked against an appropriate and available certified reference material (or sample made traceable to the certified reference material) prior to the implementation of the method for forensic analysis.

**STANDARD 8.5** The performance of a modified procedure shall be evaluated by comparison to the original procedure using similar DNA samples and the evaluation documented. The evaluation shall be reviewed and approved by the technical leader prior to the implementation of the modified procedure into casework applications.

STANDARD 8.6 A Rapid DNA instrument used for modified Rapid DNA analysis on casework reference samples shall be validated in accordance with Standard 8.

STANDARD 8.7 An NDIS approved Rapid DNA System shall require a performance check prior to use on casework reference samples.

STANDARD 8.8 New software or new modules of existing software and modifications to software shall be evaluated to assess the suitability of the software for its intended use in the laboratory and to determine the necessity of validation studies or software testing. This evaluation shall include the determination of which studies will and will not be conducted and shall be documented.

8.8.1 New software or new modules of existing software that are used as a component of instrumentation, for the analysis and/or interpretation of DNA data, or for statistical calculations, shall be subject to developmental validation prior to implementation in forensic DNA analysis.

8.8.1.1 With the exception of legally protected information, the underlying scientific principle(s) utilized by software with an impact on the analytical process, interpretation, or statistical calculations shall be publicly available for review or published in a peer-reviewed scientific journal.

8.8.1.2 Developmental software validation studies for new software or new modules of existing software used as a component of instrumentation shall include at a minimum, functional testing and reliability testing.

8.8.1.3 Developmental software validation studies for new software or new modules of existing software for the analysis and/or interpretation of DNA data shall include at a minimum, functional testing, reliability testing, and as applicable, accuracy, precision, sensitivity, and specificity studies.

8.8.1.4 Developmental software validation studies for new software or new modules of existing software for statistical calculations shall include at a minimum, functional testing, reliability testing, and as applicable, accuracy, and precision studies.

8.8.2 New software or new modules of existing software that are used as a component of instrumentation, for the analysis and/or interpretation of DNA data, or for statistical calculations shall be subject to internal validation specific to the laboratory's intended use prior to implementation in forensic DNA analysis.

8.8.2.1 Internal software validation studies for new software or new modules of existing software used as a component of instrumentation shall include functional testing and reliability testing.

8.8.2.2 Internal software validation studies for new software or new modules of existing software for the analysis and/or interpretation of DNA data shall include functional testing, reliability testing, and, as applicable, precision and accuracy studies, sensitivity, and specificity studies.

8.8.2.3 Internal software validation studies for new software or new modules of existing software for statistical calculations shall include functional testing, reliability testing, and, as applicable, precision and accuracy studies.

8.8.2.4 Software that does not impact the analytical process, interpretation, or statistical calculations shall require at a minimum, a functional test.

8.8.3 Modifications to software as described in Standards 8.8.1 and 8.8.2 shall be evaluated to determine if the modifications result in major or minor revisions to the software.

8.8.3.1 A major revision to software used as a component of instrumentation shall require validation prior to implementation. Software validation studies shall include functional testing, reliability testing, and regression testing.

8.8.3.2 A major revision to software used for the analysis and/or interpretation of DNA data shall require validation prior to implementation. Software validation studies shall include functional testing, reliability testing, regression testing, and, as applicable, precision and accuracy studies, sensitivity, and specificity studies.

8.8.3.3 A major revision to software used for statistical calculations shall require validation prior to implementation. Software validation studies shall include functional testing, reliability testing, regression testing, and, as applicable, precision and accuracy studies.

8.8.3.4 A minor revision to software that does not impact the analytical process, interpretation, or statistical calculations shall require at a minimum, a functional test.

8.8.4 Software validation studies and software testing may be shared by all locations in a multi-laboratory system. The summary of the shared validation data shall be available at each site. Each laboratory in a multi-laboratory system shall complete, document and maintain applicable site-specific reliability testing.

8.8.5 Software validation and testing shall be documented. Software validation and testing shall be reviewed and approved by the technical leader prior to implementation.

STANDARD 8.9 Developmental validation studies, internal validation studies, modified procedure evaluations, and software testing, including the approval of the technical leader, shall be retained and available for review.

## **9. ANALYTICAL PROCEDURES**

STANDARD 9.1 The laboratory shall have and follow analytical procedures supported by the internal validations and approved by the technical leader.

9.1.1 The laboratory shall have and follow a standard operating procedure for each analytical method used by the laboratory including the appropriate analytical controls required for DNA analysis and data interpretation.

STANDARD 9.2 The laboratory shall use reagents that are suitable for the methods employed.

9.2.1 The laboratory shall have procedures for documenting commercial reagents and for the formulation of in-house reagents.

9.2.2 Commercial reagents shall be labeled with the identity of the reagent and the expiration date as provided by the manufacturer or as determined by the laboratory.

9.2.3 In-house reagents shall be labeled with the identity of the reagent, the date of preparation and/or expiration, and the identity of the individual preparing the reagent.

STANDARD 9.3 The laboratory shall identify critical reagents and evaluate them prior to use in casework. The following shall be identified as critical:

9.3.1 Test kits or systems for DNA quantification or amplification.

9.3.2 Thermostable DNA polymerase, primer sets and allelic ladders used for genetic analysis that are not tested as test kit components under Standard 9.3.1.

9.3.3 Rapid DNA cartridges.

9.3.4 Other laboratory defined critical reagents.

STANDARD 9.4 Except as provided in Standard 9.4.1, the laboratory shall quantify or otherwise calculate the amount of human DNA in forensic samples prior to nuclear DNA amplification.

9.4.1 Quantification of human DNA for casework reference samples shall not be required if a laboratory has a validated system demonstrated to reliably yield successful DNA amplification and typing without prior quantification.

STANDARD 9.5 Except for Rapid DNA instruments/Systems used to analyze casework reference samples pursuant to Standards 9.7 and/or 9.8, the laboratory shall monitor the analytical procedures using the following analytical controls and standards.

9.5.1 Reagent blank controls associated with each extraction set being analyzed shall be:

9.5.1.1 Extracted concurrently and treated with the most sensitive conditions as the samples;

9.5.1.2 Amplified utilizing the same typing test kit, instrument model, and sensitivity conditions as required by the sample(s) containing the least amount of DNA; and

9.5.1.3 Typed utilizing the same instrument model, injection conditions and most sensitive volume conditions of the extraction set.

9.5.2 Where quantification is used, quantification standards shall be used. If a virtual or external standard curve is utilized, a calibrator must be run concurrently with the samples.

9.5.3 Positive and negative amplification controls associated with samples being typed shall be amplified concurrently using the same typing test kit on the same instrument as the samples.

9.5.3.1 Except as provided in 9.5.4.1, all samples typed shall also have the corresponding amplification controls typed.

9.5.4 For laboratories performing sequencing, the laboratory shall use positive and negative sequencing controls concurrently sequenced using the same typing test kit on the same instrument as the samples.

9.5.4.1 If the positive amplification control is not used as the positive sequencing control, the laboratory shall have and follow procedures for the evaluation of the positive amplification control.

9.5.5 Allelic ladders and internal size standards for PCR-based systems, as applicable.

STANDARD 9.6 The laboratory shall have and follow written guidelines for the interpretation of data that are based on and supported by internal validation studies. The laboratory shall:

9.6.1 Have criteria to evaluate quantification standards, internal size standards, allelic ladders and analytical controls.

9.6.2 Have criteria for the interpretation of non-allelic peaks/signal.

9.6.3 Have criteria for the interpretation of allelic peaks/signal.

9.6.4 Define the thresholds used for interpretation. As appropriate to the interpretation model utilized, the laboratory shall establish the following thresholds:

9.6.4.1 Analytical Threshold

9.6.4.2 Stochastic Threshold

9.6.5 Define criteria for uninterpretable data.

9.6.6 Have and follow procedures for mixture interpretation that address the following:

9.6.6.1 The assessment of the number of contributors.

9.6.6.2 The separation of contributors (e.g., major versus minor).

9.6.6.3 The criteria for deducing potential contributors.

**STANDARD 9.7** For modified Rapid DNA analysis, a laboratory shall:

9.7.1 Have and follow written guidelines for the manual interpretation of data.

9.7.1.1 The laboratory shall verify that the internal size standard and allelic ladder results meet the laboratory's interpretation guidelines.

9.7.2 Have and follow procedures to address the use of positive sample controls and negative sample controls.

**STANDARD 9.8** For Rapid DNA analysis, a laboratory shall have and follow procedures to address the use of positive sample controls and negative sample controls.

9.8.1 The Rapid DNA cartridge shall include an internal size standard with each sample.

**STANDARD 9.9** The laboratory shall define criteria for the formulation of inclusionary, exclusionary, and inconclusive conclusions.

STANDARD 9.10 The laboratory shall have and follow procedures for statistical calculations and the reporting of results and conclusions that address the following:

9.10.1 The assumptions that can be made when formulating conclusions.

9.10.2 Performing statistical analysis in support of any inclusion that is determined to be relevant in the context of the case.

9.10.3 Documenting of the genetic loci and assumptions used for statistical calculations, at a minimum, in the case notes.

9.10.4 Not using uninterpretable data in statistical calculations.

9.10.5 The approaches to performing statistical calculations.

9.10.5.1 For autosomal STR typing, the procedure shall address homozygous and heterozygous typing results, multiple locus profiles, mixtures, minimum allele frequencies, and where appropriate, biological relationships.

9.10.5.2 For lineage marker testing, the procedure shall address parameters specific for the applicable lineage marker statistical calculations.

9.10.5.3 The laboratory shall use loci that are shown to be in Hardy-Weinberg equilibrium and statistically unlinked, when using the product rule for statistical calculations.

9.10.6 The source of the population database(s) used in any statistical calculations.

9.10.7 The criteria for source attribution declarations, when applicable.

STANDARD 9.11 The laboratory shall have and follow a procedure to address the reinterpretation of legacy data.

STANDARD 9.12 The laboratory shall have and follow a procedure for the detection and control of contamination.

9.12.1 The laboratory shall have and follow procedures for cleaning and decontaminating facilities and equipment.

## **10. EQUIPMENT**

STANDARD 10.1 The laboratory shall use equipment suitable for the methods employed.

STANDARD 10.2 The laboratory shall identify critical equipment or instruments and have and follow a program to ensure they are maintained.

10.2.1 At minimum, the following shall be identified as critical:

10.2.1.1 Handheld mechanical pipettes

10.2.1.2 A thermometer traceable to national or international standard(s)

10.2.1.3 Incubators/heat blocks used in analytical procedures

10.2.1.4 Robotic systems

10.2.1.5 Thermal cyclers, including quantitative PCR

10.2.1.6 Thermal cycler temperature verification systems

10.2.1.7 Electrophoresis detection systems, including Genetic Analyzers

10.2.1.8 Rapid DNA instruments/Systems

10.2.1.9 Any additional instruments or equipment that produce DNA typing results

**STANDARD 10.3** The laboratory shall have procedures for conducting performance checks and evaluating results of critical equipment or instruments.

10.3.1 New critical equipment or instruments, not requiring validation, shall undergo a performance check before use in casework analysis. Each additional critical instrument, of the same instrument model validated for use in the laboratory, shall require a performance check prior to use in casework analysis.

10.3.2 The following critical equipment or instruments shall require annual performance checks:

10.3.2.1 Handheld mechanical pipettes

10.3.2.2 Incubators/heat blocks used in an analytical procedure

10.3.2.3 Robotic systems

10.3.2.4 Thermal cyclers, including quantitative-PCR

10.3.2.5 Thermal cycler temperature verification systems

10.3.2.6 Electrophoresis detection systems, including Genetic Analyzers

10.3.2.7 Any additional instruments or equipment that produce DNA typing results

10.3.2.8 Other critical equipment or instruments defined by laboratory

10.3.3 The following critical equipment or instruments shall require a performance check after repair or service:

10.3.3.1 Robotic systems

10.3.3.2 Thermal cyclers, including quantitative-PCR

10.3.3.3 Electrophoresis detection systems, including Genetic Analyzers

10.3.3.4 Rapid DNA instruments/Systems

10.3.3.5 Any additional instruments or equipment that produce DNA typing results

10.3.3.6 Other laboratory defined critical equipment or instruments

10.3.4 A Rapid DNA instrument/System shall require a performance check upon installation.

10.3.5 A Rapid DNA instrument/System shall undergo a performance check if the Rapid DNA instrument remains idle longer than the period recommended in the instrument specifications or as established by the laboratory.

STANDARD 10.4 The laboratory shall maintain documentation of maintenance, service, repair, and performance checks.

## **11. REPORTS**

STANDARD 11.1 The laboratory shall have and follow procedures for taking and maintaining casework notes to support the conclusions drawn in laboratory reports. The laboratory shall maintain all analytical documentation generated by technicians and/or analysts related to case analyses. The laboratory shall retain, in written, printed, or electronic format, sufficient documentation for each technical analysis to support the report conclusions such that another qualified individual can evaluate what was done and interpret the data.

STANDARD 11.2 Casework reports shall include the following elements:

11.2.1 Case identifier;

- 11.2.2 Description of evidence examined and identification of samples tested;
- 11.2.3 Technology used;
- 11.2.4 Loci, sequence region, or amplification system;
- 11.2.5 Results and/or conclusions for each forensic sample tested;
- 11.2.6 A quantitative or qualitative interpretative statement to support all inclusions;
- 11.2.7 Date of the report;
- 11.2.8 Disposition of evidence; and
- 11.2.9 A signature and title, or equivalent identification, of the person accepting responsibility for the content of the report.

**STANDARD 11.3** Except as otherwise provided by state or federal law, reports, case files, DNA records, and databases shall be confidential.

11.3.1 The laboratory shall have and follow policies and/or procedures to ensure the privacy of the reports, case files, DNA records, and databases.

11.3.2 The laboratory shall have and follow policies and/or procedures for the release of reports, case files, DNA records, and databases, in accordance with applicable state or federal law.

11.3.3 The laboratory shall have and follow policies and/or procedures for the release of personally identifiable information in accordance with applicable state and federal law.

## **12. REVIEW**

**STANDARD 12.1** The laboratory shall have and follow a procedure to conduct and document technical and administrative reviews of all case files and reports to ensure conclusions and supporting data are reasonable and within the constraints of scientific knowledge.

12.1.1 An individual conducting technical reviews shall be an analyst or technical reviewer qualified in the method, technology, typing test kit, platform, and interpretation software being reviewed.

**STANDARD 12.2** Completion of the technical review shall be documented and the technical review of forensic casework shall include the following elements:

12.2.1 A review of all case notes, all worksheets, and the electronic data (or printouts of such data) supporting the results and/or conclusions.

12.2.2 A review of all analytical controls, internal size standards, and allelic ladders to verify that the expected results were obtained, except when using an NDIS approved Rapid DNA System on casework reference samples.

12.2.3 A review of all DNA types to verify that they are supported by the raw or analyzed data (electropherograms or images), except when using an NDIS approved Rapid DNA System on casework reference samples.

12.2.4 A review of all data to verify conclusions (i.e., inclusions, exclusions, inconclusive) are in compliance with laboratory guidelines.

12.2.5 A review of statistical analysis, if applicable.

12.2.6 A review of the final report's content to verify compliance with Standard 11.2 and that the results and/or conclusions are supported by the data.

12.2.7 Verification that all profiles entered into CODIS are eligible, have the correct DNA types, and correct specimen category.

12.2.7.1 Prior to upload to SDIS, entry of a DNA profile into a searchable category of SDIS, or search of SDIS, verification of the following criteria by two concordant assessments by a qualified analyst or technical reviewer: eligibility for CODIS, correct DNA types, and appropriate specimen category.

STANDARD 12.3 Completion of the administrative review shall be documented and shall include the following elements, any or all of which may be included within the technical review:

12.3.1 A review of the case file and final report for clerical accuracy and compliance with Standard 11.2.

12.3.2 A review of chain of custody and disposition of evidence.

STANDARD 12.4 The laboratory shall have and follow a policy and/or procedure to address unresolved discrepant conclusions between analysts and reviewer(s).

STANDARD 12.5 The laboratory shall have and follow a procedure for the verification and resolution of database matches.

### 13. PROFICIENCY TESTING<sup>1</sup>

STANDARD 13.1 Analysts, technical reviewers, technicians, and other personnel designated by the technical leader, shall undergo semi-annual external proficiency testing.

13.1.1 Analysts qualified in more than one technology shall be proficiency tested in each technology at least once per calendar year.

13.1.1.1 Typing of all CODIS core loci or CODIS core sequence ranges shall be attempted for each technology at least once per calendar year.

13.1.2 Analysts qualified in more than one typing test kit shall be proficiency tested in each typing test kit at least once per calendar year.

13.1.2.1 Analysts qualified to perform modified Rapid DNA analysis shall be externally proficiency tested on the interpretation of data generated by each Rapid DNA instrument model for each PCR STR typing test kit at least once per calendar year.

13.1.3 Individuals that perform analytical procedures on forensic samples or casework reference samples shall be proficiency tested on at least one method in each methodology at least once per calendar year.

13.1.4 Except as provided in Standard 13.1.4.1, each external proficiency test shall be assigned to and completed by one analyst.

13.1.4.1 Laboratories that employ technicians and/or use a team approach for casework examination may do so on external proficiency tests. However, each analyst shall be assigned a proficiency test to complete the interpretation and report the results.

13.1.5 Individuals whose sole responsibility is technical review<sup>2</sup> shall be proficiency tested in the technical review of each technology and typing test kit at least once per calendar year.

13.1.5.1 The proficiency testing shall cover the CODIS core loci or CODIS core sequence ranges attempted for each technology at least once per calendar year.

13.1.5.2 Technical reviewers qualified to review modified Rapid DNA analysis shall be externally proficiency tested on the technical review of data

---

<sup>1</sup> The testing of legacy technologies, typing test kits and platforms shall be governed by Standard 6.8.

<sup>2</sup> A qualified analyst proficiency tested in the specific technology is qualified to serve as a technical reviewer without needing to take an additional proficiency test as a technical reviewer.

generated by a Rapid DNA instrument model for each PCR STR typing test kit at least once per calendar year.

13.1.5.3 If the technical reviewer is a contract employee conducting technical reviews for an NDIS participating laboratory the proficiency testing shall be administered by an NDIS participating laboratory and shall be reviewed and approved by the technical leader of the NDIS participating laboratory for which the technical reviewer is conducting reviews.

13.1.6 Newly qualified individuals shall undergo semi-annual external proficiency testing within eight months of the date of their authorization.

STANDARD 13.2 The laboratory shall use an external proficiency test provider that is accredited to the current applicable standard of the International Organization for Standardization and the applicable test is included on the proficiency test provider's scope of accreditation. External proficiency testing shall be an open proficiency testing program and shall be submitted to the proficiency testing provider in order to be included in the provider's published external summary report.

STANDARD 13.3 For purposes of tracking compliance with the proficiency testing requirements, the laboratory shall define and consistently use the date that the proficiency test is performed as the received date, assigned date, submitted date, or the due date.

STANDARD 13.4 The laboratory shall maintain the following records for proficiency tests:

13.4.1 The test set identifier;

13.4.2 Identity of the analyst, and other participants, if applicable;

13.4.3 Date of analysis and completion;

13.4.4 Copies of all data and notes supporting the conclusions;

13.4.5 The proficiency test results;

13.4.6 Any discrepancies noted; and

13.4.7 Corrective actions taken.

STANDARD 13.5 The laboratory shall evaluate proficiency test results and shall include, at a minimum, the following criteria:

13.5.1 All reported genotypes, phenotypes, and/or sequences are correct or incorrect according to consensus results or are compliant with the laboratory's interpretation guidelines.

13.5.2 Inclusions and exclusions are correct or incorrect.

13.5.3 All reported uninterpretable results and/or inconclusive conclusions are compliant with written laboratory guidelines.

13.5.3.1 The technical leader shall review any inconclusive conclusion for compliance with laboratory guidelines.

13.5.4 All final proficiency tests shall be evaluated as satisfactory or unsatisfactory.

13.5.4.1 All discrepancies or errors and subsequent corrective actions, as applicable, shall be documented.

STANDARD 13.6 The following shall be informed of the results of the proficiency test:

13.6.1 The proficiency test participant(s)

13.6.2 The technical leader

13.6.3 The casework CODIS administrator in the event of non-administrative discrepancies that affect the typing results and/or conclusions.

## **14. CORRECTIVE ACTION**

STANDARD 14.1 The laboratory shall have and follow a policy and/or procedure to address nonconformities detected in casework analysis, proficiency tests, testimony, and audits. The laboratory policy and/or procedure shall define when a nonconformity requires documentation and/or a corrective action plan.

14.1.1 Corrective action plans shall be documented.

STANDARD 14.2 The laboratory's documented corrective action plan shall include the identification (when possible) of the cause(s) of the nonconformity, corrective actions taken with time frames (where applicable), and preventive measures taken (where applicable) to minimize its reoccurrence.

14.2.1 Corrective action plans shall be approved by the technical leader prior to implementation.

14.2.2 The casework CODIS administrator shall be notified when the nonconformity impacts DNA records entered into CODIS.

## 15. AUDITS

STANDARD 15.1 The laboratory shall be audited annually in accordance with these standards. The annual audits shall occur every calendar year and shall be at least six months and no more than 18 months apart.

STANDARD 15.2 At least once every two years, an external audit shall be conducted by one or more auditor(s) from a second agency(ies). At least one auditor shall be or have been an analyst previously qualified in the laboratory's current DNA technologies and platforms.

15.2.1 Each analyst, technical reviewer, casework CODIS administrator, and technical leader shall have his/her education, experience, and training qualifications evaluated and approved during two successive, separate external audits. Approval of an individual's education, experience, and training qualifications shall be documented in the Audit Document.

15.2.1.1 An analyst or technical reviewer that receives additional qualification in an additional technology(ies), typing test kit(s), or platform(s) shall have the additional training qualifications evaluated and approved during one external audit. Approval of additional training qualifications shall be documented in the Audit Document.

15.2.2 Each validation study shall be evaluated and approved during one external audit. Approved validation studies shall be documented in the Audit Document.

STANDARD 15.3 Internal audits shall be conducted by an audit team that includes at least one auditor. At least one audit team member shall be or have been an analyst previously qualified in the laboratory's current DNA technologies and platforms.

STANDARD 15.4 Internal and external audits shall be conducted utilizing the *FBI DNA Quality Assurance Standards* Audit Document in effect at the time of the audit.

STANDARD 15.5 Internal and external audit documentation and, if applicable, corrective action(s) shall be reviewed by the technical leader to ensure that findings, if any, were appropriately addressed and this review shall be documented.

15.5.1 Internal and external audit documentation, and if applicable, corrective action(s) shall be provided to the casework CODIS administrator.

15.5.2 For NDIS participating laboratories, all external audit documentation and laboratory responses shall be provided to the FBI within 30 days of laboratory receipt of the Audit Document or report.

STANDARD 15.6 Internal and external audit documentation shall be retained and available for inspection during subsequent audits.

## **16. PROFESSIONAL DEVELOPMENT**

**STANDARD 16.1** The laboratory shall have and follow a program to ensure technical qualifications are maintained through participation in continuing education.

16.1.1 The technical leader, casework CODIS administrator, analyst(s), and technical reviewers shall stay abreast of topics relevant to the field of forensic DNA analysis by attending seminars, courses, professional meetings, or other documented lectures or classes in relevant subject areas for a minimum of eight cumulative hours each calendar year.

16.1.1.1 The continuing education hours shall be documented. Attendance at a regional, national, or international conference with content including topics relevant to the field of forensic DNA analysis shall be deemed to provide a minimum of eight hours of continuing education.

16.1.1.2 The laboratory shall maintain documentation of attendance through a mechanism such as certificates, attendance lists, or travel documentation.

16.1.1.3 With the exception of a regional, national, or international conference, the laboratory shall maintain documentation of content through a mechanism such as agenda/syllabus, record of presentation content, or the curriculum vitae of the presenter.

16.1.1.4 Continuing education based on multimedia or internet delivery shall be subject to the approval of the technical leader.

16.1.2 The laboratory shall have and follow a program approved by the technical leader for the annual review of scientific literature that documents the analysts' ongoing reading of scientific literature.

16.1.2.1 The laboratory shall maintain or have physical or electronic access to a collection of current books, reviewed journals, or other literature applicable to DNA analysis.

**STANDARD 16.2** The laboratory shall have and follow a program that documents the annual review of the testimony of each analyst.

16.2.1 The program shall define elements and mechanisms for testimony review.

16.2.2 The testimony review shall be documented and provided to the testifying individual.

16.2.2.1 Any deficiency and subsequent corrective actions, as applicable, shall be documented.

## **17. OUTSOURCING OWNERSHIP**

**STANDARD 17.1** A vendor laboratory performing forensic DNA analysis shall comply with these standards and the accreditation requirements of federal law.

17.1.1 An NDIS participating laboratory that outsources to a vendor laboratory shall require the vendor laboratory to provide documentation of compliance with these standards and the accreditation requirements of federal law. The NDIS participating laboratory's technical leader shall review the vendor laboratory's compliance with these standards and the accreditation requirements of federal law.

**STANDARD 17.2** Except as provided in Standards 17.2.1 and 17.2.2, the NDIS participating laboratory's technical leader shall approve the technical specifications of the outsourcing agreement with the vendor laboratory before it is awarded.

17.2.1 A vendor laboratory that is performing forensic DNA analysis on behalf of a law enforcement agency or other entity for the purposes of ownership by an NDIS participating laboratory, shall not initiate analysis until approval has been obtained from the appropriate NDIS participating laboratory's technical leader.

17.2.2 For rare instances where the NDIS participating laboratory is requested to take ownership and no outsourcing agreement exists between either the law enforcement agency, the vendor laboratory or that NDIS participating laboratory, the requested NDIS participating laboratory's technical leader shall document the following prior to acceptance of ownership of product(s) of forensic DNA analyses from the vendor laboratory:

17.2.2.1 Approval of the casework CODIS administrator and written permission from the NDIS Custodian for any scenario that involves CODIS entry or searching;

17.2.2.2 Approval of the technical specifications of testing; and

17.2.2.3 Review the documentation of or conduct an on-site visit of the vendor laboratory. The on-site visit shall have been within 18 months of the conducted analysis and in accordance with Standard 17.4.2.

**STANDARD 17.3** An NDIS participating laboratory shall have and follow a procedure to verify the integrity of the DNA data received for the purposes of taking ownership of DNA data from a vendor laboratory.

17.3.1 Prior to the search of DNA data in SDIS, an analyst, casework CODIS administrator or technical reviewer employed by an NDIS participating laboratory

shall review the DNA data to verify specimen eligibility and the correct specimen category for entry into CODIS.

17.3.2 Prior to the upload of DNA data to SDIS or the reporting of search results, the ownership review of a vendor laboratory's DNA data shall be performed by an analyst or technical reviewer employed by an NDIS participating laboratory who is qualified in the technology, platform and typing test kit used to generate the data and participates in an NDIS participating laboratory's proficiency testing program.

17.3.2.1 If the proficiency testing is administered by another NDIS participating laboratory, the technical leader of the NDIS participating laboratory for which the reviewer is conducting ownership reviews shall review and approve the reviewer's participation in an NDIS participating laboratory's proficiency testing program.

17.3.3 Except as provided in Standard 17.3.4, the ownership review shall include the following elements:

17.3.3.1 A review of all DNA types that the NDIS participating laboratory will take ownership of to verify that they are supported by the raw and/or analyzed data (electropherograms or images).

17.3.3.2 A review of all associated analytical controls, internal size standards and allelic ladders to verify that the expected results were obtained.

17.3.3.3 A review of the final report (if provided) to verify that the results/conclusions are supported by the data.

17.3.3.4 For samples to be entered into CODIS, verification of the DNA types, eligibility, and the correct specimen category.

17.3.3.4.1 Verification of eligibility must be performed by a current CODIS user.

17.3.4 For an NDIS participating laboratory that outsources to a vendor laboratory performing Rapid DNA analysis on casework reference samples using an NDIS approved Rapid DNA System, the ownership review for data generated by the Rapid DNA System shall include:

17.3.4.1 A review of the final report (if provided) to verify that the results/conclusions are supported by the Rapid DNA System data.

17.3.4.2 For samples to be entered into CODIS, verification of the eligibility and the correct specimen category.

17.3.4.2.1 Verification of eligibility must be performed by a current CODIS user.

17.3.4.3 A review of the data associated with applicable Rapid DNA System performance checks.

**STANDARD 17.4** An NDIS participating laboratory or multi-laboratory system outsourcing DNA sample(s) to a vendor laboratory or accepting ownership of DNA data from a vendor laboratory shall have and follow a procedure to perform an on-site visit(s) of the vendor laboratory, provided, however, that an on-site visit shall not be required when only technical review services are being provided. The procedure to perform an on-site visit shall include, at a minimum, the following elements:

17.4.1 A documented initial on-site visit, to assess the vendor laboratory's ability to perform analysis on outsourced casework, prior to the vendor laboratory's beginning of casework analysis for the NDIS laboratory.

17.4.1.1 The on-site visit shall be performed by the technical leader, or a designated employee of an NDIS participating laboratory, who is a qualified or previously qualified analyst in the technology, platform and typing test kit used to generate the DNA data. Alternatively, the technical leader of the NDIS participating laboratory shall evaluate and approve an on-site visit coordinated by a designated FBI employee.

17.4.2 If the outsourcing agreement extends beyond one year, an annual on-site visit shall be required. Each annual on-site visit shall occur every calendar year and shall be at least six months and no more than 18 months apart.

17.4.2.1 An NDIS participating laboratory may accept an on-site visit conducted by another NDIS participating laboratory using the same technology, platform and typing test kit for the generation of the DNA data, or coordinated by a designated FBI employee, and the technical leader shall review and approve such on-site visit.

### 41-1713. Powers and duties of director; authentication of records

#### A. The director of the department shall:

1. Be the administrative head of the department.
2. Subject to the merit system rules, appoint, suspend, demote, promote or dismiss all other classified employees of the department on the recommendation of their respective division superintendent. The director shall determine and furnish the law enforcement merit system council established by section 41-1830.11 with a table of organization. The superintendent of each division shall serve at the concurrent pleasure of the director and the governor.
3. Except as provided in sections 12-119, 41-1304 and 41-1304.05, employ officers and other personnel as the director deems necessary for the protection and security of the state buildings and grounds in the governmental mall described in section 41-1362, state office buildings in Tucson and persons who are on any of those properties. Department officers may make arrests and issue citations for crimes or traffic offenses and for any violation of a rule adopted under section 41-796. For the purposes of this paragraph, security does not mean security services related to building operation and maintenance functions provided by the department of administration.
4. Make rules necessary for the operation of the department.
5. Annually submit a report of the work of the department to the governor and the legislature, or more often if requested by the governor or the legislature.
6. Appoint a deputy director with the approval of the governor.
7. Adopt an official seal that contains the words "department of public safety" encircling the seal of this state as part of its design.
8. Investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a license or registration certificate issued pursuant to title 32, chapter 26.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
10. Adopt and administer the breath, blood or other bodily substances test rules pursuant to title 28, chapter 4.
11. Develop procedures to exchange information with the department of transportation for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.
12. Collaborate with the state forester in presentations to legislative committees on issues associated with wildfire prevention, suppression and emergency management as provided by section 37-1302, subsection B.

#### B. The director may:

1. Issue commissions to officers of the department.
2. Request the cooperation of the utilities, communication media and public and private agencies and any sheriff or other peace officer in any county or municipality, within the limits of their respective jurisdictions when necessary, to aid and assist in the performance of any duty imposed by this chapter.

3. Cooperate with any public or private agency or person to receive or give necessary assistance and may contract for such assistance subject to legislative appropriation controls.
4. Utilize the advice of the board and cooperate with sheriffs, local police and peace officers within the state for the prevention and discovery of crimes, the apprehension of criminals and the promotion of public safety.
5. Acquire in the name of the state, either in fee or lesser estate or interest, all real or any personal property that the director considers necessary for the department's use, by purchase, donation, dedication, exchange or other lawful means. All acquisitions of personal property pursuant to this paragraph shall be made as prescribed in chapter 23 of this title unless otherwise provided by law.
6. Dispose of any property, real or personal, or any right, title or interest in the property, when the director determines that the property is no longer needed or necessary for the department's use. Disposition of personal property shall be as prescribed in chapter 23 of this title. The real property shall be sold by public auction or competitive bidding after notice published in a daily newspaper of general circulation, not less than three times, two weeks before the sale and subject to the approval of the director of the department of administration. When real property is sold, it shall not be sold for less than the appraised value as established by a competent real estate appraiser. Any monies derived from the disposal of real or personal property shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
7. Sell, lend or lease personal property directly to any state, county or local law enforcement agency. Personal property may be sold or leased at a predetermined price without competitive bidding. Any state, county or local law enforcement agency receiving personal property may not resell or lease the property to any person or organization except for educational purposes.
8. Dispose of surplus property by transferring the property to the department of administration for disposition to another state budget unit or political subdivision if the state budget unit or political subdivision is not a law enforcement agency.
9. Lease or rent personal property directly to any state law enforcement officer for the purpose of traffic safety, traffic control or other law enforcement related activity.
10. Sell for one dollar, without public bidding, the department issued handgun or shotgun to a department officer on duty related retirement pursuant to title 38, chapter 5, article 4. Any monies derived from the sale of the handgun or shotgun to the retiring department officer shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
11. Conduct state criminal history records checks for the purpose of updating and verifying the status of current licensees or registrants who have a license or certificate issued pursuant to title 32, chapter 26. The director shall investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a registration certificate issued pursuant to title 32, chapter 26.
12. Grant a maximum of two thousand eighty hours of industrial injury leave to any sworn department employee who is injured in the course of the employee's duty, any civilian department employee who is injured in the course of performing or assisting in law enforcement or hazardous duties or any civilian department employee who was injured as a sworn department employee rehired after August 9, 2001 and would have been eligible pursuant to this paragraph and whose work-related injury prevents the employee from performing the normal duties of that employee's classification. This industrial injury leave is in addition to any vacation or sick leave earned or granted to the employee and does not affect the employee's eligibility for any other benefits, including workers' compensation. The employee is not eligible for payment pursuant to section 38-615 of industrial injury leave that is granted pursuant to this paragraph. Subject to approval by the law enforcement merit system council, the director shall adopt rules and procedures regarding industrial injury leave hours granted pursuant to this paragraph.

13. Sell at current replacement cost, without public bidding, the department issued badge of authority to an officer of the department on the officer's promotion or separation from the department. Any monies derived from the sale of the badge to an officer shall be deposited, pursuant to sections 35-146 and 35-147, in the department of public safety administration fund to offset replacement costs.

C. The director and any employees of the department that the director designates in writing may use the seal adopted pursuant to subsection A, paragraph 7 of this section to fully authenticate any department records and copies of these records. These authenticated records or authenticated copies of records shall be judicially noticed and shall be received in evidence by the courts of this state without any further proof of their authenticity.

41-1772. Rapid DNA testing; definitions

A. The director shall adopt rules pursuant to chapter 6 of this title prescribing procedures for administering rapid DNA testing of crime scene DNA samples, including:

1. Procedures for approving rapid DNA testing devices.
2. Procedures for ensuring the accuracy of results obtained from rapid DNA testing devices.
3. Qualifications for persons who conduct rapid DNA testing.
4. Qualifications for persons who instruct others on administering rapid DNA testing.

B. For the purposes of this section:

1. "Crime scene DNA sample" means a DNA sample of unknown origin that is allegedly left at the scene of a crime during the commission of a crime.
2. "Rapid DNA testing" means a DNA analysis that is completed within five calendar days after collecting the DNA sample.

**BOARD OF PHARMACY**

Title 4, Chapter 23

**Amend:** R4-23-411, R4-23-1104



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 14, 2022

**SUBJECT: BOARD OF PHARMACY**  
Title 4, Chapter 23

**Amend:** R4-23-411, R4-23-1104

---

### **Summary:**

This regular rulemaking from the Board of Pharmacy (Board) seeks to amend two rules in Title 4, Chapter 23, Article 4, Professional Practices, and Article 11, Pharmacy Technicians. Specifically, the Board seeks to amend these rules to allow pharmacy technicians to perform additional tasks when the task is delegated by the pharmacist on duty.

This rulemaking was originally heard at the November 30, 2021 Study Session and December 7, 2021 Council Meeting. At these meetings, members of the Council expressed reluctance to approve proposed amendments to R4-23-1104(B)(5) because the proposed rule authorized a pharmacy technician who was trained and working under the supervision of the pharmacist on duty to administer an immunization or vaccine. As a result, at the December 7, 2021 Council Meeting, the rulemaking was tabled for consideration at a future Council meeting.

Subsequently, the Board withdrew the rulemaking from Council consideration. The Board then filed a Notice of Supplemental Proposed Rulemaking, which was published in the Administrative Register on February 4, 2022. Therein, the Board removed the provision in R4-23-1104(B)(5) authorizing a pharmacy technician who was trained and working under the

supervision of the pharmacist on duty to administer an immunization or vaccine and added a new provision at R4-23-1104(B)(5)(a) excluding a pharmacy technician from administering an immunization or vaccine unless specifically authorized by statute or rule.

The Board indicates the remaining proposed amendments are meant to allow pharmacy technicians to perform additional duties when the duty is delegated by the pharmacist on duty. The Board indicates this expansion of duties performed by a pharmacy technician is consistent with the evolving national landscape for pharmacy technicians. The Board states it is also making minor changes needed to align the rules with statute or to incorporate changes implemented during the COVID19 emergency.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

The Board cites both general and specific authority for these rules.

2. **Do the rules establish a new fee or contain a fee increase?**

This rulemaking does not establish a new fee or contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Board indicates it did not review or rely on any study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

The Board is amending its rules to allow pharmacy technicians to perform additional duties when the duty is delegated by the pharmacist on duty. Expanding the landscape of work for pharmacy technicians will enable pharmacy permittees to serve the public more efficiently and effectively.

Pharmacy permittees, pharmacy technicians, and the Board will be directly affected by, bear the costs of, and will directly benefit from the rulemaking. There are currently 1,330 pharmacy permittees in Arizona and 12,125 licensed pharmacy technicians.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The agency has determined that this rulemaking is neither intrusive nor costly. No less intrusive or costly method was considered.

**6. What are the economic impacts on stakeholders?**

The Board will incur the cost of implementing the rule. The Board will also benefit from having updated rules that expand the duties performed by pharmacy technicians and enable pharmacy permittees to serve the public more efficiently and effectively.

Pharmacy permittees and pharmacy technicians are businesses directly affected by this rulemaking. The only cost involved is training required for a pharmacy technician to be qualified to perform a delegated duty and maintenance of records of the training. These costs are minimal and cannot be reduced while still ensuring public health and safety. The rulemaking is not expected to affect private or public employment, private consumers, or state revenues.

**7. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

As outlined above, the initial Notice of Proposed Rulemaking included proposed amendments to R4-23-1104(B)(5) which authorized a pharmacy technician who was trained and working under the supervision of the pharmacist on duty to administer an immunization or vaccine. After withdrawing the initial Notice of Final Rulemaking from Council consideration after the December 7, 2021 Council Meeting, the Board filed a Notice of Supplemental Proposed Rulemaking with the Secretary of State. Therein, the Board removed the provision in R4-23-1104(B)(5) authorizing a pharmacy technician who was trained and working under the supervision of the pharmacist on duty to administer an immunization or vaccine and added a new provision at R4-23-1104(B)(5)(a) excluding a pharmacy technician from administering an immunization or vaccine unless specifically authorized by statute or rule. The Board indicates no additional changes have been made between the Notice of Supplemental Proposed Rulemaking and this Notice of Final Rulemaking now before the Council.

**8. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

In the previous Notice of Final Rulemaking, considered at the November 30, 2021 Study Session and December 7, 2021 Council Meeting, the Board indicated it received six comments related to the rulemaking. The Board indicated four were from individuals representing entities that are part of the pharmaceutical industry: Pharmaceutical Care Management Association, National Association of Chain Drug Stores, CVS, and Walgreens. These comments from the pharmaceutical industry entities expressed strong support for the proposed rulemaking. The Board indicated the remaining two comments were from an individual, Mr. Rajesh Gupta, who was opposed to the rulemaking. Copies of the comments were originally included with the final materials for the Council's reference.

The Board indicates it received no additional comments related to the Notice of Supplemental Proposed Rulemaking.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Pursuant to A.R.S. § 41-1037(A), if an agency proposes an amendment to an existing rule that requires the issuance of a regulatory permit, license, or agency authorization, the agency shall use a general permit, as defined by A.R.S. § 41-1001(11), if the facilities, activities or practices in the class are substantially similar in nature unless certain exceptions apply.

The Board indicates, under A.R.S. § 41-1037(A)(2), the license issued to a pharmacy technician under A.R.S. § 32-1923.01 is not a general permit. Specifically, A.R.S. § 32-1923.01 requires the Board to assess individual qualifications before issuing the license.

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. The Board indicates there are numerous federal laws with which individuals dealing with drugs must comply, but indicates none is directly applicable to this rulemaking.

**11. Conclusion**

The Board seeks to amend two rules to allow pharmacy technicians to perform additional tasks, expressly excluding the administration of vaccines, when the task is delegated by the pharmacist on duty. Additionally, the Board indicates it is also making minor changes needed to align the rules with statute or to incorporate changes implemented during the COVID-19 emergency.

The Board is seeking the standard 60-day delayed effective date pursuant to A.R.S. § 41-1032(A). Council staff recommends approval of this rulemaking.



## Arizona State Board of Pharmacy

---

Physical Address: 1616 W. Adams, Suite 120, Phoenix, AZ 85007

Mailing Address: P.O. Box 18520, Phoenix, AZ 85005

p) 602-771-2727 f) 602-771-2749 www.azpharmacy.gov

March 21, 2022

Ms. Nicole Sornsins, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 4. Professions and Occupations  
Chapter 23. Board of Pharmacy**

Dear Ms. Sornsins:

The attached final rule package is submitted for review and approval by the Council. A related rule package was considered by the Council at its December 7, 2021 meeting. The following information is provided for Council's use in reviewing the rule package:

- A. Close of record date: The rulemaking record was closed on March 9, 2022, following a period for public comment and an oral proceeding. This rule package is being submitted within the 120 days provided by A.R.S. § 41-1024(B). Approval to submit this rule package to the Council was provided by Brian Norman, of the Governor's Office, in an e-mail dated March 21, 2022.
- B. Relation of the rulemaking to a five-year-review report: The rulemaking does not relate to a five-year-review report.
- C. New fee: The rulemaking does not establish a new fee.
- D. Fee increase: The rulemaking does not increase an existing fee.
- E. Immediate effective date: An immediate effective date is not requested.
- F. Certification regarding studies: I certify that the preamble accurately discloses the Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.
- G. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that none of the rules in this rulemaking will require a state agency to employ a new full-time employee. No notification was provided to JLBC.
- H. List of documents enclosed:
  - 1. Cover letter signed by the Executive Director;
  - 2. Notice of Final Rulemaking including the preamble, table of contents, and rule text;
  - 3. Economic, Small Business, and Consumer Impact Statement

Sincerely,

A handwritten signature in black ink that reads "Kamlesh Gandhi".

Kamlesh Gandhi  
Executive Director

NOTICE OF FINAL RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- | <b><u>1. Articles, Parts, and Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R4-23-411   | Amend                           |
| R4-23-1104  | Amend                           |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 32-1904(A)(1) and (B)  
Implementing statute: A.R.S. §§ 32-1923.01, 32-1925, 32-1961, and 32-1974
- 3. The effective date for the rules:**  
As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.
- 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. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
Notice of Rulemaking Docket Opening: 27 A.A.R. 1232, August 13, 2021  
Notice of Proposed Rulemaking: 27 A.A.R. 1219, August 13, 2021  
Notice of Supplemental Proposed Rulemaking: 28 A.A.R. 339, February 4, 2022
- 5. The agency's contact person who can answer questions about the rulemaking:**  
Name: Kamlesh Gandhi  
Address: 1616 W Adams Street, Suite 120  
Phoenix, AZ 85007

Telephone: (602) 771-2740

Fax: (602) 771-2749

E-mail: kgandhi@azpharmacy.gov

Website: www.azpharmacy.gov

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

The Board is amending its rules to allow pharmacy technicians to perform additional duties when the duty is delegated by the pharmacist on duty. This expansion of duties performed by a pharmacy technician is consistent with the evolving national landscape for pharmacy technicians. The Board is also making minor changes needed to align the rules with statute or to incorporate changes implemented during the COVID19 emergency.

An exemption from Executive Order 2021-02 was provided by Trista Guzman Glover in an e-mail dated May 18, 2021. Ms Guzman Glover authorized the Board to submit the rulemaking to the Council in an e-mail dated October 27, 2021. As a result of opinions expressed by the Council at its December 7, 2021, meeting, the Board decided to amend the proposed rulemaking. An exemption from Executive Order 2021-02 for this supplemental proposed rulemaking was provided by Ms Guzman Glover in an email dated January 6, 2022. Approval to submit this rule package to the Council was provided by Brian Norman, of the Governor's Office, in an e-mail dated March 21, 2022.

**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 any rule in 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:**

Expanding the duties performed by pharmacy technicians will enable pharmacy permittees to serve the public more efficiently and effectively.

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

At its December 7, 2021, meeting, members of the Council expressed reluctance to approve R4-23-1104(B)(5), as published in the Notice of Proposed Rulemaking, because the proposed rule authorized a pharmacy technician who was trained and working under the supervision of the pharmacist on duty to administer an immunization or vaccine. The provision was removed in a Notice of Supplemental Proposed Rulemaking and a provision added at R4-23-1104(B)(5)(a) excluding a pharmacy technician from administering an immunization or vaccine unless specifically authorized by statute or rule. No changes have been made between the Notice of Supplemental Proposed Rulemaking and this Notice of Final Rulemaking.

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

No comments were received regarding the Notice of Supplemental Proposed Rulemaking.

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

None

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

Under A.R.S. § 41-1037(A)(2), the license issued to a pharmacy technician under A.R.S. § 32-1923.01 is not a general permit. A.R.S. § 32-1923.01 requires the Board to assess individual qualifications before issuing the license.

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

No rule in this rulemaking is more stringent than federal law. There are numerous federal laws with which individuals dealing with drugs must comply but none is directly applicable to this rulemaking.

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

No analysis was submitted.

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

None

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

No rule in the rulemaking was previously made, amended, or repealed as an emergency rule.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 4. PROFESSIONAL PRACTICES**

Section

R4-23-411. Pharmacist-administered or Intern-administered Immunizations

**ARTICLE 11. PHARMACY TECHNICIANS**

Section

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

## ARTICLE 4. PROFESSIONAL PRACTICES

### **R4-23-411. Pharmacist-administered or Intern-administered Immunizations**

- A.** Authorization to administer immunizations, vaccines, and emergency medications, as defined at A.R.S. § 32-1974(N), to an eligible adult patient or eligible minor patient. As used in this Section, “eligible adult patient” means an eligible patient 13 years of age or older and “eligible minor patient” means an eligible patient at least three years of age but less than 13 years of age. A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, without a prescription, immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section;
  2. The Board authorizes both the pharmacist and intern as specified in subsection (D);
  3. For an eligible adult patient, the immunization or vaccine is:
    - a. Recommended for adults by the United States Centers for Disease Control and Prevention; or
    - b. Recommended by the United States Centers for Disease Control and Prevention’s Health Information for International Travel;
  4. For an eligible adult patient, the immunization or vaccine is not on the Arizona Department of Health Services list specified in A.A.C. R9-6-1301 as required under A.R.S. § 32-1974(I);
  5. For an eligible minor patient, the immunization or vaccine is for influenza or a booster dose as described under A.R.S. § 32-1974(B)(2); and
  6. For an eligible minor patient, any immunizations or vaccines other than influenza or a booster dose as described under A.R.S. § 32-1974(B)(2) are administered in response to a public health emergency declared by the Governor under A.R.S. § 36-787.
- B.** A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, with a prescription, any immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section; and
  2. The Board authorizes both the pharmacist and intern as specified in subsection (D).
- C.** A pharmacist or intern who is authorized to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall:

1. Not delegate the authority to any other pharmacist, intern, or employee not specifically authorized by rule; and
  2. Maintain their current certificate for inspection by the Board or its designee or review by the public.
- D.** Qualifications to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient. After receipt of a completed application form, the Board shall authorize the administration of immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient by a pharmacist or intern who meets the following qualifications:
1. Has a current license to practice pharmacy in this state,
  2. Successfully completes a training program specified in subsection (E), and
  3. Has a current certificate in basic cardiopulmonary resuscitation.
- E.** Immunizations training program requirements. A training program for pharmacists or interns to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall include the following courses of study:
1. Basic immunology and the human immune response;
  2. Mechanics of immunity, adverse effects, dose, and administration schedule of available vaccines;
  3. Response to an emergency situation as a result of the administration of an immunization, vaccine, or medication including administering an emergency medication to counteract the adverse effects of the immunization, vaccine, or medication given;
  4. Administration of intramuscular injections;
  5. Other immunization administration methods; and
  6. Recordkeeping and reporting requirements specified in subsection (F).
- F.** Recordkeeping and reporting requirements.
1. A pharmacist or intern authorized under this Section to administer immunizations, vaccines, and emergency medications to an eligible patient shall provide to the pharmacy the following information and documentation regarding each immunization, vaccine, or emergency medication administered:
    - a. The name, address, and date of birth of the patient;
    - b. The date of administration and site of injection;
    - c. The name, dose, manufacturer's lot number, and expiration date of the vaccine, immunization, or emergency medication;
    - d. The name and address of the patient's identified primary-care provider or physician;

- e. The name of the pharmacist or intern administering the immunization, vaccine, or emergency medication;
  - f. A record of the pharmacist's or intern's consultation with the patient determining that the patient is an eligible patient as defined in R4-23-110;
  - g. Consultation or other professional information provided to the patient by the pharmacist or intern;
  - h. The name and date of the immunization or vaccine information sheet provided to the patient; and
  - i. For an immunization or vaccine given to an eligible minor patient, a consent form signed by the minor's parent or guardian.
2. As required under A.R.S. § 32-1974(F)(1), the pharmacist or intern shall provide a written or electronic report to the patient's primary-care provider or physician containing the documentation required in subsection (F)(1)(a) through (d). The pharmacy shall document the time and date the report is sent and make the record of compliance with this subsection available in the pharmacy or on request, within 72 hours, for inspection by the Board or its designee.
  3. A pharmacy's pharmacist-in-charge or permittee shall maintain the records required in subsection (F)(1) in the pharmacy or database for a minimum of seven years from the administration date.
- G.** Confidentiality of records. A pharmacist, intern, pharmacy permittee, or pharmacist-in-charge shall comply with applicable state and federal privacy statutes and rules when releasing patient health information.
- H.** Pharmacist-administered or intern-administered adult immunizations that require a prescription order. A pharmacist or intern authorized by the Board to administer adult immunizations or vaccines shall not administer any immunization or vaccine listed in A.A.C. R9-6-1301 without a prescription order. In addition to filing a prescription order as required in A.R.S. § 32-1964, a pharmacist or pharmacy intern who administers an immunization or vaccine listed in A.A.C. R9-6-1301 shall comply with the recordkeeping requirements of subsection (F)(1).

## **ARTICLE 11. PHARMACY TECHNICIANS**

### **R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees**

- A.** Permissible tasks of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under

R4-23-1103 may assist a ~~graduate intern, pharmacy~~ an intern, or pharmacist with the following when applicable to the pharmacy practice site:

1. Record on the original prescription order the serial number of the prescription medication and date dispensed;
2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
3. Record information in the refill record or patient profile;
4. Enter information for a new or refill prescription medication as required under A.R.S. § 32-1964;
5. Type and affix a label for the prescription medication. A pharmacist or ~~graduate or pharmacy~~ intern working under the supervision of a pharmacist shall verify the accuracy of the label as described under R4-23-402(A)(11);
6. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
7. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
8. Prepackage drugs in accordance with R4-23-402(A); and
9. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.

**B.** Permissible tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:

1. Perform the tasks listed in subsection (A);
2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist, ~~graduate intern,~~ pharmacy intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing;

3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R4-23-1104.01(D); ~~and~~
  4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or ~~graduate or pharmacy~~ intern shall verify the accuracy of the label as described under R4-23-402(A)(12); ~~and~~
  5. Perform any task if the task is delegated to the pharmacy technician by the pharmacist on duty after the pharmacist on duty ensures the pharmacy technician is trained to do the task and evidence of the training exists in the pharmacy file. A pharmacist on duty shall not delegate or attempt to delegate the following tasks to a pharmacy technician:
    - a. Administering an immunization or vaccine unless authority for the administration is specifically provided by statute or rule.
    - b. Administering an emergency medication.
    - c. Counseling a patient.
    - d. Conducting a drug utilization review.
    - e. Performing any task that requires the exercise of clinical judgment.
    - f. Issuing a prescription order.
    - g. Receiving a new prescription order for a controlled substance, or
    - h. Transferring by telephone an existing prescription order for a controlled substance.
- C. A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) shall ensure the task is performed accurately.
- D. Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a professional practice reserved for a pharmacist, ~~graduate intern,~~ or ~~pharmacy~~ intern in accordance with R4-23-402 or R4-23-653 unless otherwise allowed by rule.
- E. A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- F. Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee tasks.
- G. A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures required under subsection (F) include the following:
1. For all practice sites:

- a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
  - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
  - c. The tasks a pharmacy technician or pharmacy technician trainee may perform as specified under subsections (A) and (B);
  - d. Pharmacist and patient communication;
  - e. Reporting, correcting, and avoiding medication and dispensing errors;
  - f. Security procedures for:
    - i. Confidentiality of patient prescription records, and
    - ii. The pharmacy area;
  - g. Automated medication distribution system;
  - h. Compounding procedures for pharmacy technicians; and
  - i. Brief overview of state and federal pharmacy statutes and rules;
2. For community and limited-service pharmacy practice sites:
    - a. Prescription dispensing procedures for:
      - i. Accepting a new written prescription order,
      - ii. Accepting a refill request,
      - iii. Selecting a drug product,
      - iv. Counting and pouring,
      - v. Labeling, and
      - vi. Obtaining refill authorization; and
    - b. Computer data-entry procedures for:
      - i. New and refill prescriptions,
      - ii. Patient's drug allergies,
      - iii. Drug-drug interactions,
      - iv. Drug-food interactions,
      - v. Drug-disease state contraindications,
      - vi. Refill frequency,
      - vii. Patient's disease and medical condition,
      - viii. Patient's age or date of birth and gender, and
      - ix. Patient profile maintenance; and
  3. For hospital pharmacy practice sites:

- a. Medication order procurement and data entry,
- b. Drug preparation and packaging,
- c. Outpatient and inpatient drug delivery, and
- d. Inspection of drug storage and preparation areas and patient care areas.

**ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>**  
**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 23. BOARD OF PHARMACY**

1. Identification of the rulemaking:

The Board is amending its rules to allow pharmacy technicians to perform additional duties when the duty is delegated by the pharmacist on duty. This expansion of the duties performed by a pharmacy technician is consistent with the evolving national landscape of work for pharmacy technicians<sup>2</sup>. The Board is also making minor changes needed to align the rules with statute or to incorporate changes implemented during the COVID19 emergency.

a. The conduct and its frequency of occurrence that the rule is designed to change:

Until the rulemaking is completed, the landscape of work for pharmacy technicians in Arizona will not be expanded in a way consistent with that in other states and the best interest of citizens.

b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

Without this rulemaking, an inexpensive, efficient, and effective way to expand public access to pharmacy services will be denied to citizens of Arizona.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

When the rulemaking is completed, the landscape of work for pharmacy technicians will expand.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

Expanding the landscape of work for pharmacy technicians will enable pharmacy permittees to serve the public more efficiently and effectively.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Kamlesh Gandhi

Address: 1616 W Adams Street, Suite 120  
Phoenix, AZ 85007

Telephone: (602) 771-2740

---

<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

<sup>2</sup> See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6958442>

Fax: (602) 771-2749

E-mail: kgandhi@azpharmacy.gov

Website: www.azpharmacy.gov

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

Pharmacy permittees, pharmacy technicians, and the Board are persons that are directly affected by, will bear the costs of, and will directly benefit from the rulemaking. There are currently 1,330 pharmacy permittees in Arizona and 12,125 licensed pharmacy technicians. All pharmacy permittees employ pharmacy technicians who perform a variety of tasks regarding prescription orders and prescription medications that do not involve the exercise of clinical judgment. Expanding the duties performed by pharmacy technicians, which may include receiving and transferring prescription orders for non-controlled substance medications, will free the time of pharmacists for activities involving the exercise of clinical judgment.

The Board incurred the cost of this rulemaking and will incur the cost of implementing it. The Board will benefit from having updated rules that expand the duties performed by pharmacy technicians and enable pharmacy permittees to serve the public more efficiently and effectively.

5. Cost-benefit analysis:

a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

The Board is the only state agency directly affected by this rulemaking. Its costs and benefits are described in item 4. The Board will not need additional full-time employees to implement the amended rules.

b. Costs and benefits to political subdivisions directly affected by the rulemaking:

Political subdivisions are not directly affected by this rulemaking.

c. Costs and benefits to businesses directly affected by the rulemaking:

Pharmacy permittees and pharmacy technicians are businesses directly affected by this rulemaking. Their costs and benefits are described in item 4.

6. Impact on private and public employment:

There will be no impact on private or public employment.

7. Impact on small businesses<sup>3</sup>:
  - a. Identification of the small business subject to the rulemaking:

Pharmacy permittees and pharmacy technicians are small businesses subject to this rulemaking.
  - b. Administrative and other costs required for compliance with the rulemaking:

The pharmacist on duty is required to ensure the pharmacy technician to whom a duty is delegated is trained to perform the duty and evidence of the training exists in the pharmacy file.
  - c. Description of methods that may be used to reduce the impact on small businesses:

The only cost involved is that of the training required for a pharmacy technician to be qualified to perform a delegated duty and maintenance of records of the training. These costs are minimal and cannot be reduced while still ensuring public health and safety.
8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

Private persons and consumers are not directly affected by this rulemaking.
9. Probable effects on state revenues:

The rulemaking has no effect on state revenue.
10. Less intrusive or less costly alternative methods considered:

The rulemaking is neither intrusive nor costly. No less intrusive or costly method was considered.

---

<sup>3</sup> Small business has the meaning specified in A.R.S. § 41-1001(21).

## CHAPTER 23. BOARD OF PHARMACY

2. Components for pharmaceutical product compounding are accurately weighed, measured, or subdivided. To ensure that each weight, measure, or subdivision is correct as stated in the compounding procedures, a pharmacist:
    - a. Checks and rechecks, or assumes responsibility for checking and re-checking, the operations at each stage of the compounding process; and
    - b. Documents by hand-written initials or signature the completion and accuracy of the compounding process.
  3. Compounding equipment and utensils are properly cleaned and maintained.
  4. In addition to the labeling requirements of A.R.S. § 32-1968(D), the label contains:
    - a. A statement, symbol, designation, or abbreviation that the pharmaceutical product is a compounded pharmaceutical product, and
    - b. A beyond-use-date as specified in subsection (B)(3)(d).
  5. A written list of the compounded pharmaceutical product's active ingredients is given to the patient at the time of dispensing.
  6. When a component is removed from its original container and transferred to another container, the new container label contains, in full text or an abbreviated code system, the following:
    - a. The component name,
    - b. The manufacturer's or supplier's name,
    - c. The lot or control number,
    - d. The weight or measure,
    - e. The beyond-use-date as specified in subsection (B)(3)(d), and
    - f. The transfer date.
- J.** A pharmacy permittee shall ensure that the pharmacist-in-charge stores any quantity of compounded pharmaceutical product produced in excess of the quantity dispensed in accordance with subsection (B):
1. In an appropriate container with a label that contains:
    - a. A complete list of components or the pharmaceutical product's name;
    - b. The preparation date;
    - c. The assigned lot or control number; and
    - d. A beyond-use-date as specified in subsection (B)(3)(d); and
  2. Under conditions, dictated by the pharmaceutical product's composition and stability characteristics, that ensure its strength, quality, and purity.
- K.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes, implements, and complies with record-keeping procedures that comply with this subsection:
1. Pharmaceutical product compounding procedures and other records required by this Section are maintained by the pharmacy for not less than seven years, and
  2. Pharmaceutical product compounding procedures and other records required by this Section are readily available for inspection by the Board or its designee.

**Historical Note**

Adopted effective August 5, 1997 (Supp. 97-3).  
Amended by final rulemaking at 10 A.A.R. 3391, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 3981, effective December 4, 2006 (Supp. 06-4).

**R4-23-411. Pharmacist-administered or Intern-administered Immunizations**

- A.** Authorization to administer immunizations, vaccines, and emergency medications, as defined at A.R.S. § 32-1974(N), to an eligible adult patient or eligible minor patient. As used in this Section, "eligible adult patient" means an eligible patient 13 years of age or older and "eligible minor patient" means an eligible patient at least three years of age but less than 13 years of age. A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, without a prescription, immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section;
  2. The Board authorizes both the pharmacist and intern as specified in subsection (D);
  3. For an eligible adult patient, the immunization or vaccine is:
    - a. Recommended for adults by the United States Centers for Disease Control and Prevention; or
    - b. Recommended by the United States Centers for Disease Control and Prevention's Health Information for International Travel;
  4. For an eligible adult patient, the immunization or vaccine is not on the Arizona Department of Health Services list specified in A.A.C. R9-6-1301 as required under A.R.S. § 32-1974(I);
  5. For an eligible minor patient, the immunization or vaccine is for influenza or a booster dose as described under A.R.S. § 32-1974(B)(2); and
  6. For an eligible minor patient, any immunizations or vaccines other than influenza or a booster dose as described under A.R.S. § 32-1974(B)(2) are administered in response to a public health emergency declared by the Governor under A.R.S. § 36-787.
- B.** A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, with a prescription, any immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section; and
  2. The Board authorizes both the pharmacist and intern as specified in subsection (D).
- C.** A pharmacist or intern who is authorized to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall:
1. Not delegate the authority to any other pharmacist, intern, or employee; and
  2. Maintain their current certificate for inspection by the Board or its designee or review by the public.
- D.** Qualifications to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient. After receipt of a completed application form, the Board shall authorize the administration of immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient by a pharmacist or intern who meets the following qualifications:
1. Has a current license to practice pharmacy in this state,
  2. Successfully completes a training program specified in subsection (E), and
  3. Has a current certificate in basic cardiopulmonary resuscitation.
- E.** Immunizations training program requirements. A training program for pharmacists or interns to administer immunizations,

## CHAPTER 23. BOARD OF PHARMACY

vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall include the following courses of study:

1. Basic immunology and the human immune response;
  2. Mechanics of immunity, adverse effects, dose, and administration schedule of available vaccines;
  3. Response to an emergency situation as a result of the administration of an immunization, vaccine, or medication including administering an emergency medication to counteract the adverse effects of the immunization, vaccine, or medication given;
  4. Administration of intramuscular injections;
  5. Other immunization administration methods; and
  6. Recordkeeping and reporting requirements specified in subsection (F).
- F. Recordkeeping and reporting requirements.**
1. A pharmacist or intern authorized under this Section to administer immunizations, vaccines, and emergency medications to an eligible patient shall provide to the pharmacy the following information and documentation regarding each immunization, vaccine, or emergency medication administered:
    - a. The name, address, and date of birth of the patient;
    - b. The date of administration and site of injection;
    - c. The name, dose, manufacturer's lot number, and expiration date of the vaccine, immunization, or emergency medication;
    - d. The name and address of the patient's identified primary-care provider or physician;
    - e. The name of the pharmacist or intern administering the immunization, vaccine, or emergency medication;
    - f. A record of the pharmacist's or intern's consultation with the patient determining that the patient is an eligible patient as defined in R4-23-110;
    - g. Consultation or other professional information provided to the patient by the pharmacist or intern;
    - h. The name and date of the immunization or vaccine information sheet provided to the patient; and
    - i. For an immunization or vaccine given to an eligible minor patient, a consent form signed by the minor's parent or guardian.
  2. As required under A.R.S. § 32-1974(F)(1), the pharmacist or intern shall provide a written or electronic report to the patient's primary-care provider or physician containing the documentation required in subsection (F)(1)(a) through (d). The pharmacy shall document the time and date the report is sent and make the record of compliance with this subsection available in the pharmacy or on request, within 72 hours, for inspection by the Board or its designee.
  3. A pharmacy's pharmacist-in-charge or permittee shall maintain the records required in subsection (F)(1) in the pharmacy or database for a minimum of seven years from the administration date.
- G. Confidentiality of records.** A pharmacist, intern, pharmacy permittee, or pharmacist-in-charge shall comply with applicable state and federal privacy statutes and rules when releasing patient health information.
- H. Pharmacist-administered or intern-administered adult immunizations that require a prescription order.** A pharmacist or intern authorized by the Board to administer adult immunizations or vaccines shall not administer any immunization or vaccine listed in A.A.C. R9-6-1301 without a prescription order. In addition to filing a prescription order as required in A.R.S. § 32-1964, a pharmacist or pharmacy intern who administers an

immunization or vaccine listed in A.A.C. R9-6-1301 shall comply with the recordkeeping requirements of subsection (F)(1).

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3967, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 279, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 14 A.A.R. 3674, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 15 A.A.R. 1930, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 17 A.A.R. 2596, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 23 A.A.R. 211, effective March 5, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

**R4-23-412. Emergency Refill Prescription Dispensing**

- A.** When a state of emergency is declared under A.R.S. § 32-1910(A) or (B) and the state of emergency results in individuals being unable to refill existing prescriptions, a pharmacist may work in the affected county, city, or town and may dispense a one-time emergency refill prescription of up to a 30-day supply of a prescribed medication to an affected individual if both of the following apply:
1. In the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy, and
  2. The pharmacist makes a good faith effort to reduce the information to a written prescription marked "emergency prescription" and files and maintains the prescription as required by law.
- B.** If the state of emergency declared under A.R.S. § 32-1910(A) or (B) continues for at least 21-days after the pharmacist dispenses an emergency prescription under subsection (A), the pharmacist may dispense one additional emergency refill prescription of up to a 30-day supply of the prescribed medication if the pharmacist complies with subsection (A)(2).
- C.** A pharmacist's authority to dispense emergency prescriptions under this Section ends when the declared state of emergency is terminated.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 4400, effective January 3, 2009 (Supp. 08-4).

**R4-23-413. Temporary Recognition of Nonresident Licensure**

- A.** When a state of emergency is declared under A.R.S. § 32-1910(A) or (B):
1. A pharmacist who is not licensed in this state, but who is currently licensed in another state, may dispense prescription medications in those affected counties, cities, or towns in this state during the time that a declared state of emergency exists under A.R.S. § 32-1910(A) or (B) if both of the following apply:
    - a. The pharmacist provides proof of current licensure in another state, and
    - b. The pharmacist is engaged in a relief effort during a state of emergency.
  2. Acting under the direct supervision of a pharmacist, a pharmacy technician or pharmacy intern not licensed in this state, but currently licensed or registered in another state, may assist a pharmacist in dispensing prescription medications in affected counties, cities, or towns in this state during the time

## CHAPTER 23. BOARD OF PHARMACY

2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Licensure.**
1. If an applicant is found to be ineligible for pharmacy technician licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
  2. If an applicant is found to be eligible for pharmacy technician licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician before receiving the certificate of licensure.
  3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician until the Board office issues a certificate of licensure as specified in subsection (C)(2).
  4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- D. License renewal.**
1. To renew a license, a pharmacy technician shall submit a completed license renewal application electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205.
  2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacy technician license is suspended and the licensee shall not practice as a pharmacy technician. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.
  3. A licensee shall maintain the renewal certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
- E. Time frames for pharmacy technician licensure and license renewal.** The Board office shall follow the time frames established in R4-23-202(F).
- F. Verification of license.** A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician until the pharmacy permittee or pharmacist-in-charge verifies the person is currently licensed by the Board as a pharmacy technician.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2).

**R4-23-1103. Pharmacy Technician Trainee Licensure**

- A. Eligibility.** An applicant for licensure as a pharmacy technician trainee shall provide the Board proof the applicant is eligible under R4-23-1101(B)(1).
- B. Application.**
1. An applicant for licensure as a pharmacy technician trainee shall:
    - a. Submit a completed application electronically or manually on a form furnished by the Board, and
    - b. Submit with the application form:
      - i. The documents specified in the application form,
      - ii. The licensure fee specified in R4-23-205, and
      - iii. The wall license fee specified in R4-23-205.

2. The Board office shall deem an application form received on the date the Board office electronically or manually date-stamps the form.
- C. Licensure.**
1. If an applicant is found to be ineligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a written notice of denial to the applicant.
  2. If an applicant is found to be eligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician trainee before receiving the certificate of licensure.
  3. An applicant who is assigned a license number and who has a "pending" status on the Board's license verification site shall not practice as a pharmacy technician trainee until the Board office issues a certificate of licensure as specified in subsection (C)(2).
  4. A licensee shall maintain the certificate of licensure in the practice site for inspection by the Board or its designee or review by the public.
  5. A pharmacy technician trainee license is valid for 36 months from the date issued. A pharmacy technician trainee who does not complete the prescribed training program and pass a Board-approved pharmacy technician examination before the pharmacy technician trainee's license expires is not eligible for licensure as a pharmacy technician and shall not practice as a pharmacy technician or pharmacy technician trainee. The Board has approved the following pharmacy technician examinations:
    - a. Pharmacy Technician Certification Board (PTCB) Exam, and
    - b. Exam for the Certification of Pharmacy Technicians (ExCPT).
- D. Time frames for pharmacy technician trainee licensure.** The Board office shall follow the time frames established in R4-23-202(F).
- E. Verification of license.** A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician trainee until the pharmacy permittee or pharmacist-in-charge verifies that the person is currently licensed by the Board as a pharmacy technician trainee.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 2911, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1015, effective June 1, 2019 (Supp. 19-2). Amended by final rulemaking at 26 A.A.R. 223, effective March 14, 2020 (Supp. 20-1).

**R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees**

- A. Permissible tasks of a pharmacy technician trainee.** Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under R4-23-1103 may assist a graduate intern, pharmacy intern, or pharmacist with the following when applicable to the pharmacy practice site:
1. Record on the original prescription order the serial number of the prescription medication and date dispensed;

## CHAPTER 23. BOARD OF PHARMACY

2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
  3. Record information in the refill record or patient profile;
  4. Enter information for a new or refill prescription medication as required under A.R.S. § 32-1964;
  5. Type and affix a label for the prescription medication. A pharmacist or graduate or pharmacy intern working under the supervision of a pharmacist shall verify the accuracy of the label as described under R4-23-402(A)(11);
  6. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
  7. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
  8. Prepackage drugs in accordance with R4-23-402(A); and
  9. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.
- B.** Permissible tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:
1. Perform the tasks listed in subsection (A);
  2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing;
  3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R4-23-1104.01(D); and
  4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or graduate or pharmacy intern shall verify the accuracy of the label as described under R4-23-402(A)(12).
- C.** A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) shall ensure the task is performed accurately.
- D.** Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a professional practice reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402 or R4-23-653.
- E.** A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- F.** Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee tasks.
- G.** A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures required under subsection (F) include the following:
1. For all practice sites:
    - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
    - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
    - c. The tasks a pharmacy technician or pharmacy technician trainee may perform as specified under subsections (A) and (B);
    - d. Pharmacist and patient communication;
    - e. Reporting, correcting, and avoiding medication and dispensing errors;
    - f. Security procedures for:
      - i. Confidentiality of patient prescription records, and
      - ii. The pharmacy area;
    - g. Automated medication distribution system;
    - h. Compounding procedures for pharmacy technicians; and
    - i. Brief overview of state and federal pharmacy statutes and rules;
  2. For community and limited-service pharmacy practice sites:
    - a. Prescription dispensing procedures for:
      - i. Accepting a new written prescription order,
      - ii. Accepting a refill request,
      - iii. Selecting a drug product,
      - iv. Counting and pouring,
      - v. Labeling, and
      - vi. Obtaining refill authorization; and
    - b. Computer data-entry procedures for:
      - i. New and refill prescriptions,
      - ii. Patient's drug allergies,
      - iii. Drug-drug interactions,
      - iv. Drug-food interactions,
      - v. Drug-disease state contraindications,
      - vi. Refill frequency,
      - vii. Patient's disease and medical condition,
      - viii. Patient's age or date of birth and gender, and
      - ix. Patient profile maintenance; and
  3. For hospital pharmacy practice sites:
    - a. Medication order procurement and data entry,
    - b. Drug preparation and packaging,
    - c. Outpatient and inpatient drug delivery, and
    - d. Inspection of drug storage and preparation areas and patient care areas.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 1192, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 3032, effective October 1, 2006 (Supp. 06-3). Amended by final rulemaking at 19 A.A.R. 102, effective March 10, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 3257, effective January 8, 2018 (Supp. 17-4).

**R4-23-1104.01 Technology-assisted Verification of Product**

- A.** By complying with this Section, the permittee of a retail, institutional, or limited-service pharmacy may implement a technology-assisted verification of product program that allows a pharmacy technician licensed under R4-23-1102 and qualified under subsection (D) to perform final product verification.
- B.** Written program description required. Before implementing a technology-assisted verification of product program the per-

As of January 20, 2022

### 32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means directly applying a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.
2. "Advertisement" means all representations that are disseminated in any manner or by any means other than by labeling for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.
3. "Advisory letter" means a nondisciplinary letter to notify a licensee or permittee that either:
  - (a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee or permittee.
  - (b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.
  - (c) While the licensee or permittee has demonstrated substantial compliance through rehabilitation, remediation or reeducation that has mitigated the need for disciplinary action, the board believes that repeating the activities that led to the investigation may result in further board action against the licensee or permittee.
4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.
5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.
6. "Automated prescription-dispensing kiosk" means a mechanical system that is operated as an extension of a pharmacy, that maintains all transaction information within the pharmacy operating system, that is separately permitted from the pharmacy and that performs operations that either:
  - (a) Accept a prescription or refill order, store prepackaged or repackaged medications, label and dispense patient-specific prescriptions and provide counseling on new or refilled prescriptions.
  - (b) Dispense or deliver a prescription or refill that has been prepared by or on behalf of the pharmacy that oversees the automated prescription-dispensing kiosk.
7. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.
8. "Certificate of composition" means a list of a product's ingredients.
9. "Certificate of free sale" means a document that authenticates a product that is generally and freely sold in domestic or international channels of trade.

10. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance that is made by a process of synthesis or similar artifice or that is extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

11. "Compounding" means preparing, mixing, assembling, packaging or labeling a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes preparing drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and preparing drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include preparing commercially available products from bulk compounds or preparing drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

12. "Compressed medical gas distributor" means a person that holds a current permit issued by the board to distribute compressed medical gases to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

13. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

14. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

15. "Compressed medical gas supplier" means a person that holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

16. "Controlled substance" means a drug, substance or immediate precursor that is identified, defined or listed in title 36, chapter 27, article 2 or the rules adopted pursuant to title 36, chapter 27, article 2.

17. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of the tissue by chemical action.

18. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person that in fact manufactured, distributed or dispensed that drug.

19. "Dangerous drug" has the same meaning prescribed in section 13-3401.

20. "Day" means a business day.

21. "Decree of censure" means an official action that is taken by the board and that may include a requirement for restitution of fees to a patient or consumer.

22. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

23. "Deputy director" means a pharmacist who is employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

24. "Device", except as used in paragraph 18 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means an instrument, apparatus or contrivance, including its components, parts and accessories, including all such items under the federal act, that is intended either:

(a) For use in diagnosing, curing, mitigating, treating or preventing disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

25. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.

26. "Direct supervision of a pharmacist" means that the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

27. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including prescribing, administering, packaging, labeling or compounding as necessary to prepare for that delivery.

28. "Dispenser" means a practitioner who dispenses.

29. "Distribute" means to deliver, other than by administering or dispensing.

30. "Distributor" means a person who distributes.

31. "Drug" means:

(a) Articles that are recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles that are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food that are intended to affect the structure or any function of the human body or other animals.

(d) Articles that are intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

32. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

33. "Drug or device manufacturing" means producing, preparing, propagating or processing a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and promoting and marketing the same. Drug or device manufacturing does not include compounding.

34. "Durable medical equipment" means technologically sophisticated medical equipment as prescribed by the board in rule that a patient or consumer may use in a home or residence and that may be a prescription-only device.

35. "Durable medical equipment distributor":

(a) Means a person that stores or distributes durable medical equipment other than to the patient or consumer.

(b) Includes a virtual durable medical equipment distributor as prescribed in rule by the board.

36. "Durable medical equipment supplier":

(a) Means a person that sells, leases or supplies durable medical equipment to the patient or consumer.

(b) Includes a virtual durable medical equipment supplier as prescribed in rule by the board.

37. "Economic poison" means any substance that alone, in chemical combination with or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in producing, storing or transporting raw agricultural commodities.

38. "Enteral feeding" means nourishment that is provided by means of a tube inserted into the stomach or intestine.

39. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, the common or usual name of the drug.

40. "Executive director" means the executive director of the board of pharmacy.

41. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.

42. "Full-service wholesale permittee":

(a) Means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

(b) Includes a virtual wholesaler as defined in rule by the board.

43. "Good manufacturing practice" means a system for ensuring that products are consistently produced and controlled according to quality standards and covering all aspects of design, monitoring and control of manufacturing processes and facilities to ensure that products do not pose any risk to the consumer or public.

44. "Highly toxic" means any substance that falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less. If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

45. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.

46. "Intern" means a pharmacy intern.

47. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

48. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

49. "Jurisprudence examination" means a board-approved pharmacy law examination that is written and administered in cooperation with the national association of boards of pharmacy or another board-approved pharmacy law examination.

50. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

51. "Labeling" means all labels and other written, printed or graphic matter that either:

(a) Is on any article or any of its containers or wrappers.

(b) Accompanies that article.

52. "Letter of reprimand" means a disciplinary letter that is a public document issued by the board and that informs a licensee or permittee that the licensee's or permittee's conduct violates state or federal law and may require the board to monitor the licensee or permittee.

53. "Limited service pharmacy" means a pharmacy that is approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

54. "Manufacture" or "manufacturer":

(a) Means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, that is devoted to manufacturing the drug.

(b) Includes a virtual manufacturer as defined in rule by the board.

55. "Marijuana" has the same meaning prescribed in section 13-3401.

56. "Medical practitioner" means any medical doctor, doctor of osteopathic medicine, dentist, podiatrist, veterinarian or other person who is licensed and authorized by law to use and prescribe drugs and devices to treat sick and injured human beings or animals or to diagnose or prevent sickness in human beings or animals in this state or any state, territory or district of the United States.

57. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

58. "Narcotic drug" has the same meaning prescribed in section 13-3401.

59. "New drug" means either:

(a) Any drug of which the composition is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug of which the composition is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

60. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and that is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only".

(d) A drug that is intended for human use by hypodermic injection.

61. "Nonprescription drug wholesale permittee":

(a) Means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

(b) Includes a virtual wholesaler as defined in rule by the board.

62. "Notice" means personal service or the mailing of a copy of the notice by certified mail and email addressed either to the person at the person's latest address of record in the board office or to the person and the person's attorney using the most recent information provided to the board in the board's licensing database.

63. "Nutritional supplementation" means vitamins, minerals and caloric supplementation. Nutritional supplementation does not include medication or drugs.

64. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

65. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.
66. "Package" means a receptacle that is defined or described in the United States pharmacopeia and the national formulary as adopted by the board.
67. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.
68. "Parenteral nutrition" means intravenous feeding that provides an individual with fluids and essential nutrients the individual needs while the individual is unable to receive adequate fluids or feedings by mouth or by enteral feeding.
69. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.
70. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.
71. "Pharmacist" means an individual who is currently licensed by the board to practice the profession of pharmacy in this state.
72. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.
73. "Pharmacist licensure examination" means a board-approved examination that is written and administered in cooperation with the national association of boards of pharmacy or any other board-approved pharmacist licensure examination.
74. "Pharmacy":
- (a) Means:
- (i) Any place where drugs, devices, poisons or related hazardous substances are offered for sale at retail or where prescription orders are dispensed by a licensed pharmacist.
- (ii) Any place that has displayed on it or in it the words "pharmaceutical chemist", "apothecary", "druggist", "pharmacy", "drugstore", "drugs" or "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.
- (iii) Any place where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited and where drugs are stored or dispensed.
- (iv) Any place or a portion of any building or structure that is leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.
- (v) A remote dispensing site pharmacy.
- (vi) A remote hospital site pharmacy, as defined by the board in rule, that operates under direct or remote supervision by a pharmacist pursuant to rules adopted by the board.

(b) Includes a satellite pharmacy.

75. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

76. "Pharmacy technician" means a person who is licensed pursuant to this chapter.

77. "Pharmacy technician trainee" means a person who is licensed pursuant to this chapter.

78. "Poison" or "hazardous substance" includes any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance that is designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

79. "Practice of pharmacy":

(a) Means furnishing the following health care services as a medical professional:

(i) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.

(ii) Compounding drugs pursuant to or in anticipation of a prescription order.

(iii) Labeling drugs and devices in compliance with state and federal requirements.

(iv) Participating in drug selection and drug utilization reviews, drug administration, drug or drug-related research and drug therapy monitoring or management.

(v) Providing patient counseling necessary to provide pharmaceutical care.

(vi) Properly and safely storing drugs and devices in anticipation of dispensing.

(vii) Maintaining required records of drugs and devices.

(viii) Offering or performing acts, services, operations or transactions that are necessary to conduct, operate, manage and control a pharmacy.

(ix) Initiating, monitoring and modifying drug therapy pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970.

(x) Initiating and administering immunizations or vaccines pursuant to section 32-1974.

(b) Does not include initiating a prescription order for any medication, drug or other substance used to induce or cause a medication abortion as defined in section 36-2151.

80. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person who is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution that is licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

81. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and who complies with section 32-1923.

82. "Precursor chemical" means a substance that is:

(a) The principal compound that is commonly used or that is produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(b) Listed in section 13-3401, paragraph 26 or 27.

83. "Prescription" means either a prescription order or a prescription medication.

84. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

85. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

86. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, that is required by the federal act to bear on its label the legend "Rx only".

87. "Prescription order" means any of the following:

(a) An order to a pharmacist for drugs or devices that is issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order that is transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964, and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

(c) An order that is initiated by a pharmacist pursuant to a protocol-based drug therapy agreement with a provider as outlined in section 32-1970, or immunizations or vaccines administered by a pharmacist pursuant to section 32-1974.

(d) A diet order or an order for enteral feeding, nutritional supplementation or parenteral nutrition that is initiated by a registered dietitian or other qualified nutrition professional in a hospital pursuant to section 36-416.

88. "Professionally incompetent" means:

(a) Incompetence based on a variety of factors, including a lack of sufficient pharmaceutical knowledge or skills or experience to a degree likely to endanger the health of patients.

(b) When considered with other indications of professional incompetence, a pharmacist or pharmacy intern who fails to obtain a passing score on a board-approved pharmacist licensure examination or a pharmacy technician or pharmacy technician trainee who fails to obtain a passing score on a board-approved pharmacy technician licensure examination.

89. "Radioactive substance" means a substance that emits ionizing radiation.

90. "Remote dispensing site pharmacy" means a pharmacy where a pharmacy technician or pharmacy intern prepares, compounds or dispenses prescription medications under remote supervision by a pharmacist.

91. "Remote supervision by a pharmacist" means that a pharmacist directs and controls the actions of pharmacy technicians and pharmacy interns through the use of audio and visual technology.

92. "Revocation" or "revoke" means the official cancellation of a license, permit, registration or other approval authorized by the board for a period of two years unless otherwise specified by the board. A request or new application for reinstatement may be presented to the board for review before the conclusion of the specified revocation period upon review of the executive director.

93. "Safely engage in employment duties" means that a permittee or the permittee's employee is able to safely engage in employment duties related to the manufacture, sale, distribution or dispensing of drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals.

94. "Satellite pharmacy" means a work area located within a hospital or on a hospital campus that is not separated by other commercial property or residential property, that is under the direction of a pharmacist, that is a remote extension of a centrally licensed hospital pharmacy, that is owned by and dependent on the centrally licensed hospital pharmacy for administrative control, staffing and drug procurement and that is not required to be separately permitted.

95. "Symbol" means the characteristic symbols that have historically identified pharmacy, including show globes and mortar and pestle, and the sign "Rx".

96. "Third-party logistics provider" means an entity that provides or coordinates warehousing or other logistics services for the following items, but that does not take ownership of the items, and that distributes those items as directed by a manufacturer, wholesaler, dispenser or durable medical equipment supplier that is permitted by the board:

- (a) Narcotic drugs or other controlled substances.
- (b) Dangerous drugs as defined in section 13-3401.
- (c) Prescription-only drugs and devices.
- (d) Nonprescription drugs and devices.
- (e) Precursor chemicals.
- (f) Regulated chemicals as defined in section 13-3401.

97. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

98. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

**32-1901.01. Definition of unethical and unprofessional conduct; permittees; licensees**

A. In this chapter, unless the context otherwise requires, for the purposes of disciplining a permittee, "unethical conduct" means the following, whether occurring in this state or elsewhere:

1. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
2. Committing an act that is substantially related to the qualifications, functions or duties of a permittee and that demonstrates either a lack of good moral character or an actual or potential unfitness to hold a permit in light of the public's safety.
3. Working under the influence of alcohol or other drugs.
4. Using alcohol or other drugs to such a degree as to render the permittee unfit to perform the permittee's employment duties.
5. Violating a federal or state law or administrative rule relating to the manufacture, sale or distribution of drugs, devices, poisons, hazardous substances or precursor chemicals.

6. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals.
7. Violating state or federal reporting or recordkeeping requirements on transactions relating to precursor chemicals.
8. Failing to report in writing to the board any evidence that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy.
9. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.
10. Failing to report in writing to the board any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties related to manufacturing, selling, distributing or dispensing drugs, devices, poisons, hazardous substances, controlled substances or precursor chemicals or is or may be violating this chapter or a rule adopted under this chapter.
11. Intending to sell, transfer or distribute, or to offer for sale, transfer or distribution, or selling, transferring, distributing or dispensing or offering for sale, transfer or distribution an imitation controlled substance, imitation over-the-counter drug or imitation prescription-only drug as defined in section 13-3451.
12. Having the permittee's permit to manufacture, sell, distribute or dispense drugs, devices, poisons, hazardous substances or precursor chemicals denied or disciplined in another jurisdiction.
13. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.
14. Obtaining or attempting to obtain a permit or a permit renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.
15. Wilfully making a false report or record that is required by this chapter, that is required by federal or state laws pertaining to drugs, devices, poisons, hazardous substances or precursor chemicals or that is required to pay for drugs, devices, poisons or hazardous substances or precursor chemicals or for services pertaining to such drugs or substances.
16. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.
17. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.
18. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, this chapter.
19. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.
20. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

21. Failing to provide the board or its employees or agents or an authorized federal or state official conducting a site investigation, inspection or audit with access to any place for which a permit has been issued or for which an application for a permit has been submitted.
22. Failing to notify the board of a change of ownership, management or pharmacist in charge.
23. Failing to promptly produce on the request of the official conducting a site investigation, inspection or audit any book, record or document.
24. Overruling or attempting to overrule a pharmacist in matters of pharmacy ethics or interpreting laws pertaining to the practice of pharmacy or the distribution of drugs or devices.
25. Distributing premiums or rebates of any kind in connection with the sale of prescription medication, other than to the prescription medication recipient.
26. Failing to maintain effective controls against the diversion of controlled substances or precursor chemicals to unauthorized persons or entities.
27. Fraudulently claiming to have performed a service.
28. Fraudulently charging a fee for a service.
29. Advertising drugs or devices, or services pertaining to drugs or devices, in a manner that is untrue or misleading in any particular, and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading.

B. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacist or pharmacy intern, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Using alcohol or other drugs to such a degree as to render the licensee unfit to practice the profession of pharmacy.
2. Violating any federal or state law, rule or regulation relating to the manufacture or distribution of drugs and devices or the practice of pharmacy.
3. Dispensing a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the orderer, or in the case of a prescription order, the medical practitioner. The conduct prohibited by this paragraph does not apply to substitutions authorized pursuant to section 32-1963.01.
4. Obtaining or attempting to obtain a license to practice pharmacy or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.
5. Having the licensee's license to practice pharmacy denied or disciplined in another jurisdiction.
6. Claiming professional superiority in compounding or dispensing prescription orders.
7. Failing to comply with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937 and rules adopted by the board.
8. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

9. Working under the influence of alcohol or other drugs.

10. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.

11. Knowingly dispensing a drug without a valid prescription order as required pursuant to section 32-1968, subsection A.

12. Knowingly dispensing a drug on a prescription order that was issued in the course of the conduct of business of dispensing drugs pursuant to diagnosis by mail or the internet, unless the order was any of the following:

(a) Made by a physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(b) Made in an emergency medical situation as defined in section 41-1831.

(c) Written to prepare a patient for a medical examination.

(d) Written or the prescription medications were issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, a public health emergency, an infectious disease outbreak or an act of bioterrorism. For the purposes of this subdivision, "bioterrorism" has the same meaning prescribed in section 36-781.

(e) Written or antimicrobials were dispensed by the prescribing or dispensing physician to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661.

(f) Written or the prescription medications were issued for administering immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.

(g) For epinephrine auto-injectors that are written or dispensed for a school district or charter school and that are to be stocked for emergency use pursuant to section 15-157 or for an authorized entity to be stocked pursuant to section 36-2226.01.

(h) Written by a licensee through a telehealth program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(i) Written pursuant to a physical or mental health status examination that was conducted through telehealth as defined in section 36-3601 and consistent with federal law.

(j) For naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration and written or dispensed for use pursuant to section 36-2228 or 36-2266.

13. Failing to report in writing to the board any evidence that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.

14. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct

or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.

15. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be violating this chapter or a rule adopted under this chapter.

16. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.

17. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.

18. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.

19. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

20. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.

21. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.

22. Refusing without just cause to allow authorized agents of the board to examine documents that are required to be kept pursuant to this chapter or title 36.

23. Participating in an arrangement or agreement to allow a prescription order or a prescription medication to be left at, picked up from, accepted by or delivered to a place that is not licensed as a pharmacy. This paragraph does not prohibit a pharmacist or a pharmacy from using an employee or a common carrier to pick up prescription orders at or deliver prescription medications to the office or home of a medical practitioner, the residence of a patient or a patient's hospital.

24. Paying rebates or entering into an agreement for paying rebates to a medical practitioner or any other person in the health care field.

25. Providing or causing to be provided to a medical practitioner prescription order blanks or forms bearing the pharmacist's or pharmacy's name, address or other means of identification.

26. Fraudulently claiming to have performed a professional service.

27. Fraudulently charging a fee for a professional service.

28. Failing to report a change of the licensee's home address, contact information, employer or employer's address as required by section 32-1926.

29. Failing to report a change in the licensee's residency status as required by section 32-1926.01.

30. Failing to maintain effective controls against the diversion of controlled substances or precursor chemicals to unauthorized persons or entities.

C. In this chapter, unless the context otherwise requires, for the purposes of disciplining a pharmacy technician or pharmacy technician trainee, "unprofessional conduct" means the following, whether occurring in this state or elsewhere:

1. Using alcohol or other drugs to such a degree as to render the licensee unfit to perform the licensee's employment duties.
2. Violating a federal or state law or administrative rule relating to the manufacture or distribution of drugs or devices.
3. Obtaining or attempting to obtain a pharmacy technician or pharmacy technician trainee license or a pharmacy technician license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.
4. Having the licensee's license to practice as a pharmacy technician denied or disciplined in another jurisdiction.
5. Failing to comply with the mandatory continuing professional education requirements of section 32-1925, subsection H and rules adopted by the board.
6. Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
7. Working under the influence of alcohol or other drugs.
8. Violating a federal or state law or administrative rule relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled substances or precursor chemicals when determined by the board or by conviction in a federal or state court.
9. Failing to report in writing to the board any evidence that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of pharmacy.
10. Failing to report in writing to the board any evidence that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee.
11. Failing to report in writing to the board any evidence that a permittee or a permittee's employee is or may be guilty of unethical conduct or is or may be violating this chapter or a rule adopted under this chapter.
12. Committing an offense in another jurisdiction that if committed in this state would be grounds for discipline.
13. Knowingly filing with the board any application, renewal or other document that contains false or misleading information.
14. Providing false or misleading information or omitting material information in any communication to the board or the board's employees or agents.
15. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate, this chapter.

16. Violating a formal order, terms of probation, a consent agreement or a stipulation issued or entered into by the board or its executive director pursuant to this chapter.
17. Failing to comply with a board subpoena or failing to comply in a timely manner with a board subpoena without providing any explanation to the board for not complying with the subpoena.
18. Failing to report a change of the licensee's home address, contact information, employer or employer's address as required by section 32-1926.
19. Failing to report a change in the licensee's residency status as required by section 32-1926.01.

**32-1902. Arizona state board of pharmacy; immunity**

A. The Arizona state board of pharmacy is established consisting of the following members who are appointed by the governor:

1. Six pharmacists at least one of whom is a pharmacist employed by a licensed hospital and at least one of whom is employed by a community pharmacy and engaged in the day-to-day practice of pharmacy.
2. One pharmacy technician.
3. Two public members.

B. To be qualified for appointment:

1. A pharmacist must be licensed as a pharmacist in this state or any other jurisdiction for a period of at least ten years and licensed as a pharmacist and a resident in this state for a period of at least five years immediately before the date of appointment.
2. Each public member must be a resident of this state for a period of at least five years immediately before the date of appointment.
3. A pharmacy technician must be a practicing pharmacy technician in this state or any other jurisdiction for at least five years and be licensed as a pharmacy technician and a resident of this state for at least five years immediately before the date of appointment. A pharmacy technician appointed before July 1, 2009 does not have to meet the minimum five year licensure requirement of this paragraph.

C. Each pharmacist and pharmacy technician member shall serve for a term of five years. Public members may serve for a term of five years unless removed by the governor. The public members shall after the first of every year present a written report to the governor. Vacancies occurring on the board other than by expiration of term of office shall be filled for the unexpired portion of the term only.

D. On or before January 15 of each year in which a pharmacist or a pharmacy technician is to be appointed, the executive director of the pharmacy association of Arizona may submit to the governor a list of the names of at least seven of its members who have been nominated by the association, and who meet the requirements as provided in this section for the next occurring vacancy on the board. The governor may make appointments of licensed pharmacists and pharmacy technicians to the board from the nominees on the list or from others having the necessary qualifications.

E. Appointees to the board within thirty days after their appointment shall take and subscribe to an oath or affirmation, before a properly qualified officer, that they will faithfully and impartially perform the duties of their office. The executive director shall file the oath or affirmation with the secretary of state.

F. Members of the board are personally exempt from suit with respect to all acts done and actions taken in good faith and in furtherance of this chapter.

32-1903. Organization; meetings; quorum; compensation of board; executive director; compensation; powers and duties

A. The board shall annually elect a president and a vice-president from among its membership and, subject to title 41, chapter 4, article 4, select an executive director who may or may not be a member of the board. The executive director shall serve at the pleasure of the board.

B. The president of the board shall preside at all of its meetings. The vice-president shall act if the president is absent. A majority of the membership of the board constitutes a quorum.

C. The executive director is the executive officer in charge of the board's office and shall administer this chapter under the direction of the board. The executive director shall make, keep and be in charge of all records and record books required to be kept by the board, including a register of all licensees and registered businesses under this chapter. The executive director shall attend to the correspondence of the board and perform other duties the board requires. The executive director is eligible to receive compensation as determined pursuant to section 38-611.

D. Any member of the board or the executive director may administer oaths in connection with the duties of the board. The books, registers and records of the board as made and kept by the executive director or under the executive director's supervision are prima facie evidence of the matter therein recorded in any court of law. Members of the board are eligible to receive compensation in the amount of two hundred dollars for each day of actual service in the business of the board and reimbursement for all expenses necessarily and properly incurred in attending meetings of or for the board.

E. The executive director may designate the deputy director to sign claims and other documents in the executive director's absence. If the executive director dies, becomes incapacitated or resigns, the deputy director shall serve as the executive director until the board selects a new executive director.

F. The executive director may cause to be published reports summarizing judgments, decrees, court orders and board action that may have been rendered under this chapter, including the nature of charges and the disposition of the charges. The executive director may disseminate information regarding drugs, devices, poisons or hazardous substances in situations the executive director believes involve imminent danger to health or gross deception of the consumer and report the results of investigations carried out under this chapter.

32-1904. Powers and duties of board; immunity

A. The board shall:

1. Make bylaws and adopt rules that are necessary to protect the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.

2. Fix standards and requirements to register and reregister pharmacies, except as otherwise specified.

3. Investigate compliance as to the quality, label and labeling of all drugs, devices, poisons or hazardous substances and take action necessary to prevent the sale of these if they do not conform to the standards prescribed in this chapter, the official compendium or the federal act.

4. Enforce its rules. In so doing, the board or its agents have free access, during the hours reported with the board or the posted hours at the facility, to any pharmacy, manufacturer, wholesaler, third-party logistics provider, nonprescription drug permittee or other establishment in which drugs, devices, poisons or hazardous substances are manufactured, processed, packed or held, or to enter any vehicle being used to transport or hold such drugs, devices, poisons or hazardous substances for the purpose of:

(a) Inspecting the establishment or vehicle to determine whether any provisions of this chapter or the federal act are being violated.

(b) Securing samples or specimens of any drug, device, poison or hazardous substance after paying or offering to pay for the sample.

(c) Detaining or embargoing a drug, device, poison or hazardous substance in accordance with section 32-1994.

5. Examine and license as pharmacists and pharmacy interns all qualified applicants as provided by this chapter.

6. Require each applicant for an initial license to apply for a fingerprint clearance card pursuant to section 41-1758.03. If an applicant is issued a valid fingerprint clearance card, the applicant shall submit the valid fingerprint clearance card to the board with the completed application. If an applicant applies for a fingerprint clearance card and is denied, the applicant may request that the board consider the application for licensure notwithstanding the absence of a valid fingerprint clearance card. The board, in its discretion, may approve an application for licensure despite the denial of a valid fingerprint clearance card if the board determines that the applicant's criminal history information on which the denial was based does not alone disqualify the applicant from licensure.

7. Issue duplicates of lost or destroyed permits on the payment of a fee as prescribed by the board.

8. Adopt rules to rehabilitate pharmacists and pharmacy interns as provided by this chapter.

9. At least once every three months, notify pharmacies regulated pursuant to this chapter of any modifications on prescription writing privileges of podiatrists, dentists, doctors of medicine, registered nurse practitioners, osteopathic physicians, veterinarians, physician assistants, optometrists and homeopathic physicians of which it receives notification from the state board of podiatry examiners, state board of dental examiners, Arizona medical board, Arizona state board of nursing, Arizona board of osteopathic examiners in medicine and surgery, Arizona state veterinary medical examining board, Arizona regulatory board of physician assistants, state board of optometry or board of homeopathic and integrated medicine examiners.

10. Charge a permittee a fee, as determined by the board, for an inspection if the permittee requests the inspection.

11. Issue only one active or open license per individual.

12. Allow a licensee to regress to a lower level license on written explanation and review by the board for discussion, determination and possible action.

13. Open an investigation only if the identifying information regarding a complainant is provided or the information provided is sufficient to conduct an investigation.

14. Provide notice to an applicant, licensee or permittee using only the information provided to the board through the board's licensing database.

B. The board may:

1. Employ chemists, compliance officers, clerical help and other employees subject to title 41, chapter 4, article 4 and provide laboratory facilities for the proper conduct of its business.

2. Provide, by educating and informing the licensees and the public, assistance in curtailing abuse in the use of drugs, devices, poisons and hazardous substances.

3. Approve or reject the manner of storage and security of drugs, devices, poisons and hazardous substances.

4. Accept monies and services to assist in enforcing this chapter from other than licensees:

(a) For performing inspections and other board functions.

(b) For the cost of copies of the pharmacy and controlled substances laws, the annual report of the board and other information from the board.

5. Adopt rules for professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession of pharmacy.

6. Grant permission to deviate from a state requirement for modernization of pharmacy practice, experimentation or technological advances.

7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.

8. Investigate alleged violations of this chapter, conduct hearings in respect to violations, subpoena witnesses and take such action as it deems necessary to revoke or suspend a license or a permit, place a licensee or permittee on probation or warn a licensee or permittee under this chapter or to bring notice of violations to the county attorney of the county in which a violation took place or to the attorney general.

9. By rule, approve colleges or schools of pharmacy.

10. By rule, approve programs of practical experience, clinical programs, internship training programs, programs of remedial academic work and preliminary equivalency examinations as provided by this chapter.

11. Assist in the continuing education of pharmacists and pharmacy interns.

12. Issue inactive status licenses as provided by this chapter.

13. Accept monies and services from the federal government or others for educational, research or other purposes pertaining to the enforcement of this chapter.

14. By rule, except from the application of all or any part of this chapter any material, compound, mixture or preparation containing any stimulant or depressant substance included in section 13-3401, paragraph 6, subdivision (c) or (d) from the definition of dangerous drug if the material, compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures are included in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse of the substances that do have a stimulant or depressant effect on the central nervous system.

15. Adopt rules for the revocation, suspension or reinstatement of licenses or permits or the probation of licensees or permittees as provided by this chapter.

16. Issue a certificate of free sale to any person that is licensed by the board as a manufacturer for the purpose of manufacturing or distributing food supplements or dietary supplements as defined in rule by the board and that wants to sell food supplements or dietary supplements domestically or internationally. The application shall contain all of the following:

- (a) The applicant's name, address, email address, telephone and fax number.
- (b) The product's full, common or usual name.
- (c) A copy of the label for each product listed. If the product is to be exported in bulk and a label is not available, the applicant shall include a certificate of composition.
- (d) The country of export, if applicable.
- (e) The number of certificates of free sale requested.

17. Establish an inspection process to issue certificates of free sale or good manufacturing practice certifications. The board shall establish in rule:

- (a) A fee to issue certificates of free sale.
- (b) A fee to issue good manufacturing practice certifications.
- (c) An annual inspection fee.

18. Delegate to the executive director the authority to:

- (a) If the president or vice president of the board concurs after reviewing the case, enter into an interim consent agreement with a licensee or permittee if there is evidence that a restriction against the license or permit is needed to mitigate danger to the public health and safety. The board may subsequently formally adopt the interim consent agreement with any modifications the board deems necessary.
- (b) Take no action or dismiss a complaint that has insufficient evidence that a violation of statute or rule governing the practice of pharmacy occurred.
- (c) Request an applicant or licensee to provide court documents and police reports if the applicant or licensee has been charged with or convicted of a criminal offense. The executive director may do either of the following if the applicant or licensee fails to provide the requested documents to the board within thirty business days after the request:
  - (i) Close the application, deem the application fee forfeited and not consider a new application complete unless the requested documents are submitted with the application.
  - (ii) Notify the licensee of an opportunity for a hearing in accordance with section 41-1061 to consider suspension of the licensee.
- (d) Pursuant to section 36-2604, subsection B, review prescription information collected pursuant to title 36, chapter 28, article 1.

C. At each regularly scheduled board meeting, the executive director shall provide to the board a list of the executive director's actions taken pursuant to subsection B, paragraph 18, subdivisions (a), (c) and (d) of this section since the last board meeting.

D. The board may issue nondisciplinary civil penalties or delegate to the executive director the authority to issue nondisciplinary civil penalties. The nondisciplinary civil penalties shall be prescribed by the board in rule and issued using a board-approved form. If a licensee or permittee fails to pay a nondisciplinary civil penalty that the board has imposed on it, the board shall hold a hearing on the matter. In addition to any other nondisciplinary civil penalty adopted by the board, either of the following acts or omissions that is not an imminent threat to the public health and safety is subject to a nondisciplinary civil penalty:

1. An occurrence of either of the following:

(a) Failing to submit a remodel application before remodeling a permitted facility.

(b) Failing to notify the board of the relocation of a business.

2. The occurrence of any of the following violations or any of the violations adopted by the board in rule, with three or more violations being presented to the board as a complaint:

(a) The licensee or permittee fails to update the licensee's or permittee's online profile within ten days after a change in contact information, address, telephone number or email address.

(b) The licensee fails to update the licensee's online profile within ten days after a change in employment.

(c) The licensee fails to complete the required continuing education for a license renewal.

(d) The licensee fails to update the licensee's online profile to reflect a new pharmacist in charge within fourteen days after the position change.

(e) The permittee fails to update the permittee's online profile to reflect a new designated representative within ten days after the position change.

(f) The licensee or permittee fails to notify the board of a new criminal charge, arrest or conviction against the licensee or permittee in this state or any other jurisdiction.

(g) The licensee or permittee fails to notify the board of a disciplinary action taken against the licensee or permittee by another regulating agency in this state or any other jurisdiction.

(h) A licensee or permittee fails to renew a license or permit within sixty days after the license or permit expires. If more than sixty days have lapsed after the expiration of a license or permit, the licensee or permittee shall appear before the board.

(i) A new pharmacist in charge fails to conduct a controlled substance inventory within ten days after starting the position.

(j) A person fails to obtain a permit before shipping into this state anything that requires a permit pursuant to this chapter.

(k) Any other violations of statute or rule that the board or the board's designee deems appropriate for a nondisciplinary civil penalty.

E. The board shall develop substantive policy statements pursuant to section 41-1091 for each specific licensing and regulatory authority the board delegates to the executive director.

F. The executive director and other personnel or agents of the board are not subject to civil liability for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

32-1905. Meetings; time and place; annual report

A. The board of pharmacy shall hold meetings to consider license and permit applications and to transact other business legally coming before it. The board must hold at least four meetings in each fiscal year.

B. The board shall designate the time and place of its meetings at least thirty days before each meeting.

C. The board shall submit an annual written report to the governor and to the Arizona pharmacy association that includes the names of all pharmacists, interns, pharmacy technicians, pharmacy technician trainees, pharmacies, wholesalers, third-party logistics providers and manufacturers authorized to practice under this chapter and a record of licenses, permits and renewals.

32-1906. Membership in national associations; official attendance at professional meetings

A. The board may join and subscribe to state, district, regional or national organizations or publications relating to and dealing with pharmacy and manufacturing, wholesaling, and distribution of drugs, devices, poisons, and hazardous substances.

B. Members of the board, the executive director and compliance officers, if authorized by the board, and subject to legislative appropriation therefor, may attend the state, district, regional and national meetings and other educational meetings relating to any of the subjects as provided in subsection A that, in the discretion of the board, are necessary and for its best interests.

32-1907. Arizona state board of pharmacy fund

A. Except as provided in section 32-1939, the executive director shall receive and receipt for all fees and other monies provided for in this chapter and shall deposit, pursuant to sections 35-146 and 35-147, ten percent of such monies in the state general fund and ninety percent in the Arizona state board of pharmacy fund. All monies derived from civil penalties collected pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

B. Except as provided in subsection C of this section, monies deposited in the Arizona state board of pharmacy fund shall be subject to section 35-143.01.

C. From monies deposited in the Arizona state board of pharmacy fund pursuant to subsection A of this section, the executive director may transfer up to five hundred thousand dollars annually to the controlled substances prescription monitoring program fund established by section 36-2605 for expenses related to the controlled substances prescription monitoring program as required by title 36, chapter 28.

D. From monies deposited in the Arizona state board of pharmacy fund pursuant to subsection A of this section, the executive director may transfer up to one million dollars annually to the Arizona poison and drug information center for the purposes specified in section 36-1161 to supplement, and not supplant, any state general fund appropriation for those purposes.

32-1908. Scope of chapter

A. The provisions of this chapter regarding the selling of drugs, poisons, or hazardous substances shall be considered to include the sale, dispensing, furnishing or giving of any such article, or the supplying or applying of any such articles in the conduct of any drug, poison, or hazardous substance establishment.

B. Nothing in this chapter shall be construed to confer authority to license or regulate the collection, processing or distribution of whole human blood or its plasma, fractionations, products, derivatives or other human tissue procured, processed or distributed by federally licensed or regulated blood banks or tissue banks.

32-1909. Donated medicine; donors; authorized recipients; requirements; immunity; definitions

A. A donor may donate medicine to an authorized recipient, and an authorized recipient may receive donated medicine from donors. Before a donor may make its first donation to an authorized recipient, the authorized recipient must verify and record all the following:

1. That the donor is legally authorized to possess the medicine.
2. The donor's name, address and telephone number and permit or license number, if applicable.
3. That the donor will remove or redact any patient names and prescription numbers on donated medicine or will otherwise maintain patient confidentiality by executing a confidentiality agreement with the authorized recipient.

B. Notwithstanding any other law, an authorized recipient may transfer donated medicine to another authorized recipient or to an entity participating in a drug donation program operated by another state. Medicine transferred pursuant to this section may be transferred only once.

C. An authorized recipient may accept into inventory only donated medicine that meets all of the following:

1. Is in unopened, tamper-evident packaging or that has been repackaged under this section.
2. Is not adulterated or misbranded.
3. Has been maintained in accordance and in compliance with the United States food and drug administration risk evaluation and mitigation strategies pursuant to 21 United States Code section 355-1, if applicable.
4. Is accompanied by an attestation from the donor stating that the medicine being donated has been kept in a temperature-controlled environment and has not been adulterated.

D. An authorized recipient may accept into inventory a donated biologic only if the donated biologic meets the requirements of subsection C of this section and is donated by a health care professional or an entity legally authorized to possess the biologic.

E. Donated medicine that does not meet the requirements of subsection C of this section must be disposed of by returning it to the donor, destroying it in an incinerator, medical waste hauler or other lawful method or transferring it to a returns processor. A record of disposed medicine shall contain a description of the disposal method, the date of disposal and the name, strength and quantity of each medicine disposed of. No other record of disposal is required.

F. A drug manufacturer, repackager, dispenser or wholesaler, other than a returns processor, that participates in this program shall comply with the requirements of 21 United States Code sections 360eee-1 through 360eee-4 relating to drug supply chain security.

G. All donated medicine received by an authorized recipient but not yet accepted into inventory shall be kept in a separate designated area. Before or when accepting a donation or transfer into inventory, the authorized recipient shall maintain a written or electronic inventory of the donation consisting of the name, strength and quantity of each accepted medicine and the name, address and telephone number of the donor. This record is not required if the donor and authorized recipient are under common ownership or common control. No other record of donation is required.

H. An authorized recipient must store and maintain donated medicine physically or electronically separated from other inventory and in a secure and temperature-controlled environment that meets the drug manufacturers' recommendations and United States pharmacopeia standards.

I. Repackaged medicine shall be labeled with the drug's name, strength and expiration date and shall be kept in a separate designated area until inspected and initialed by a health care professional. If multiple packaged donated medicines with varied expiration dates are repackaged together, the earliest expiration date shall be used.

J. An authorized recipient may administer or dispense only donated medicine that meets all of the following:

1. Meets the requirements of subsection C of this section based on an inspection by a health care professional.
2. If dispensed to an eligible patient, is repackaged into a new container or has all previous patient information on the donated container redacted or removed.
3. Is properly labeled in accordance with board rules.
4. Has an expiration or beyond-use date brought forward from the donated medicine that will not expire before the medicine is completely used by the eligible patient based on the prescribing practitioner's directions for use or, for over-the-counter medicine, on the package's label.

K. An authorized recipient may dispense or administer donated medicine to an eligible patient only if otherwise allowed by law. Donated medicine may be dispensed or administered only to eligible patients pursuant to a valid prescription order and must have patient-specific written or electronic records maintained in accordance with board rules.

L. Donated medicine may not be dispensed or administered to an eligible patient if the prescriber writes or clearly displays on the face of the prescription form "DAW", "dispense as written" or any other language that indicates a substitution is not allowed.

M. The donation, transfer, receipt or facilitation of donated medicine pursuant to this section is not considered wholesale distribution and does not require licensing as a wholesale distributor.

N. Medicine donated under this section may not be resold and is considered nonsaleable. Charging a handling, dispensing or administrative fee under this section is not reselling a donated medicine. The board shall prescribe in rule the limits on the fees that an authorized recipient may charge under this section considering the medicine's retail cost for a monthly supply.

O. When performing any action under this section or otherwise processing donated medicine for tax, manufacturer or other credit, an authorized recipient is considered to be acting as a returns processor and shall comply with all recordkeeping requirements for nonsaleable returns under federal law.

P. An authorized recipient shall retain all records required by this section in a physical or electronic format for a period of at least seven years. A donor and authorized recipient may contract with each other or a third party to create or maintain records on each other's behalf. An identifier, such as a serial number or barcode, may be used in place of any information required to be in a record or on a label pursuant to this section if the identifier allows for such information to be readily retrievable. On request by the board, the identifier used for requested records shall be replaced with the original information. An identifier may not be used on patient labels when dispensing or administering a donated medicine.

Q. A donation or other transfer of possession or control is not a change of ownership unless it is specified as such by the authorized recipient. If a record of the donation's transaction information or history is required, the history must begin with the donor of the medicine and include all prior donations and, if the medicine was previously dispensed, must include only drug information required to be on the patient label in accordance with board rules.

R. A donor or authorized recipient shall make all records available for audit by the board within five business days after the request.

S. The following are not subject to civil liability, criminal liability or professional disciplinary action if acting in good faith under this section:

1. A person involved in the supply chain of donated medicine, including a donor, authorized recipient, manufacturer, repackager, wholesaler or pharmacy.

2. A person, including any employee, officer, volunteer, owner, partner, member, director, contractor or other person or entity associated with the person, that in compliance with this section prescribes, donates, receives, dispenses, administers, transfers, replenishes or repackages medicine, or facilitates any of the above pursuant to this section.

T. This section does not prohibit otherwise legal activities related to nonprescription drugs.

U. For the purposes of this section:

1. "Authorized recipient" means any entity that has a license or permit in good standing in this state and that is legally authorized to possess medicine, including a wholesaler, distributor, reverse distributor, repackager, hospital, pharmacy or health care institution.

2. "Donor":

- (a) Means any person, any individual member of the public or any entity legally authorized to possess medicine, including a manufacturer, wholesaler, distributor, third-party logistic provider, pharmacy, dispenser, clinic, surgical center, health center, detention and rehabilitation center, laboratory, medical school, pharmacy school, health care professional or health care facility.

- (b) Includes government agencies and entities that are federally authorized to possess medicine, including drug manufacturers, repackagers, relabelers, outsourcing facilities, prisons and importers authorized by the United States food and drug administration.

3. "Eligible patient" means an individual who is indigent, uninsured, underinsured or enrolled in a public health benefits program.

4. "Health care professional" means a health care provider who is licensed or certified pursuant to this title and authorized to dispense or administer prescription drugs.

5. "Medicine" means both prescription and nonprescription drugs, including drugs approved by the United States food and drug administration and labeled for investigational use.

6. "Returns processor" has the same meaning prescribed in 21 United States Code section 360eee and includes a reverse distributor.

7. "Unopened, tamper-evident packaging" has the same meaning as United States pharmacopeia packaging and storage requirements, including unopened unit-dose, multiple-dose and immediate, secondary and tertiary packaging.

### 32-1910. Emergencies: continued provision of services

A. If a natural disaster or terrorist attack occurs and, as a consequence of the natural disaster or terrorist attack, a state of emergency is declared by the governor or by a county, city or town pursuant to its authority and the declared state of emergency results in individuals being unable to refill existing prescriptions, the board shall cooperate with this state and the county, city or town to ensure the provision of drugs, devices and professional services to the public.

B. If a natural disaster or terrorist attack occurs in another state and, as a consequence of the natural disaster or terrorist attack, a state of emergency is declared by the governor of that state and the declared state of emergency results in individuals being temporarily relocated to Arizona and unable to refill existing prescriptions, the board shall cooperate with this state to ensure the provision of drugs, devices and professional services to the relocated individuals.

C. When a state of emergency has been declared pursuant to this section, a pharmacist may work in the affected county, city or town and may dispense a one-time emergency refill prescription of up to a thirty-day supply of a prescribed medication if both of the following apply:

1. In the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy.
2. The pharmacist makes a good faith effort to reduce the information to a written prescription marked "emergency prescription" and then files and maintains the prescription as required by law.

D. If the state of emergency declared pursuant to this section continues for at least twenty-one days after the pharmacist dispenses an emergency prescription pursuant to subsection C, the pharmacist may dispense one additional emergency refill prescription of up to a thirty day supply of the prescribed medication.

E. A pharmacist who is not licensed in this state, but who is currently licensed in another state, may dispense prescription medications in those affected counties, cities or towns in this state during the time that a declared state of emergency exists pursuant to this section if both of the following apply:

1. The pharmacist has proof of licensure in another state.
2. The pharmacist is engaged in a legitimate relief effort during the period of time an emergency has been declared pursuant to this section.

F. The board may adopt rules for the provision of pharmaceutical care and drug and device delivery during a declared emergency that is the consequence of a natural disaster or terrorist attack, including the use of temporary or mobile pharmacy facilities and nonresident licensed pharmacy professionals.

G. A pharmacist's authority to dispense prescriptions pursuant to this section ends when the declared state of emergency is terminated.

32-1921. Exempted acts; exemption from registration fees; definition

A. This chapter does not prevent:

1. The prescription and dispensing of drugs or prescription medications by a registered nurse practitioner or clinical nurse specialist pursuant to rules adopted by the Arizona state board of nursing in consultation with the Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery and the Arizona state board of pharmacy.
2. The sale of nonprescription drugs that are sold at retail in original packages by a person holding a permit issued by the board under this chapter. This chapter does not require a person to hold a board-issued permit to sell only nonprescription drugs at retail in original packages.
3. The sale of drugs at wholesale by a wholesaler or manufacturer that holds the required permit issued by the board to a person who holds the required permit issued under this chapter.
4. The manufacturing of drugs by a person who is not a pharmacist and who holds the required permit issued by the board under this chapter.
5. The following health professionals from dispensing or personally administering drugs or devices to a patient for a condition being treated by the health professional:
  - (a) A doctor of medicine licensed pursuant to chapter 13 of this title.
  - (b) An osteopathic physician licensed pursuant to chapter 17 of this title.
  - (c) A homeopathic physician licensed pursuant to chapter 29 of this title.
  - (d) A podiatrist licensed pursuant to chapter 7 of this title.
  - (e) A dentist licensed pursuant to chapter 11 of this title.
  - (f) A doctor of naturopathic medicine who is authorized to prescribe natural substances, drugs or devices and who is licensed pursuant to chapter 14 of this title.
  - (g) An optometrist who is licensed pursuant to chapter 16 of this title and who is certified for topical or oral pharmaceutical agents.
6. A veterinarian licensed pursuant to chapter 21 of this title from dispensing or administering drugs to an animal or from dispensing or administering devices to an animal being treated by the veterinarian.
7. The use of any pesticide chemical, soil or plant nutrient or other agricultural chemical that is a color additive solely because of its effect in aiding, retarding or otherwise affecting directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color whether before or after harvest.
8. A licensed practical or registered nurse employed by a person licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title from assisting in the delivery of drugs and devices to patients, in accordance with chapter 7, 11, 13, 14, 17 or 29 of this title.

9. The use of any mechanical device or vending machine in connection with the sale of any nonprescription drug, including proprietary and patent medicine. The board may adopt rules to prescribe conditions under which nonprescription drugs may be dispensed pursuant to this paragraph.

B. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title and who employs a licensed practical or registered nurse who in the course of employment assists in the delivery of drugs and devices is responsible for the dispensing process.

C. Pursuant to a prescription order written by a physician for the physician's patients and dispensed by a licensed pharmacist, a physical therapist licensed pursuant to chapter 19 of this title, an occupational therapist licensed pursuant to chapter 34 of this title or an athletic trainer licensed pursuant to chapter 41 of this title may procure, store and administer nonscheduled legend and topical anti-inflammatories and topical anesthetics for use in phonophoresis and iontophoresis procedures and within the scope of practice of physical or occupational therapy or athletic training.

D. A public health facility operated by this state or a county and a qualifying community health center may dispense medication or devices to patients at no cost without providing a written prescription if the public health facility or the qualifying community health center meets all storage, labeling, safety and record keeping rules adopted by the board of pharmacy.

E. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title, who is practicing at a public health facility or a qualifying community health center and who is involved in the dispensing of medication or devices only at a facility or center, whether for a charge or at no cost, shall register to dispense with the appropriate licensing board but is exempt from paying registration fees.

F. For the purposes of this section, "qualifying community health center" means a primary care clinic that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code and whose board of directors includes patients of the center and residents of the center's service area.

#### 32-1921.01. Disclosures on applications; licensees; applicability

A. A pharmacist, pharmacy intern, pharmacy technician and pharmacy technician trainee are not required to disclose the following information when filing an application under this chapter:

1. A single misdemeanor charge that was dismissed, expunged or set aside more than five years before the date of application.
2. A single misdemeanor conviction that occurred more than ten years before the date of application.
3. A single felony conviction that was reduced to a misdemeanor conviction or that was dismissed, expunged or set aside more than ten years before the date of application.

B. An applicant or licensee who has had more than one of any charge or conviction specified in subsection A of this section shall disclose that information to the board.

C. Subsection A of this section applies to current licensees.

#### 32-1922. Qualifications of applicant; reciprocity; preliminary equivalency examination; honorary certificate; fee

A. An applicant for licensure as a pharmacist shall:

1. Be of good moral character.

2. Be a graduate of a school or college of pharmacy or department of pharmacy of a university recognized by the board or the accreditation council for pharmacy education, or qualify under subsection D of this section.

3. Have successfully completed, as substantiated by proper affidavits, a program of practical experience under the direct supervision of a licensed pharmacist who is approved by the board.

4. Pass the pharmacist licensure examination and jurisprudence examination approved by the board. An applicant who fails an examination three times shall petition the board for permission before retaking the examination. The board shall evaluate the petition and determine whether to require additional educational training before approving each additional retake of the examination.

5. Pay an application fee prescribed by the board of not more than \$500. An applicant for reciprocal licensure shall pay the fee prescribed in section 32-1924, subsection D.

B. The board may license as a pharmacist, without a pharmacist licensure examination, a person who is licensed as a pharmacist by a pharmacist licensure examination in some other jurisdiction if that person:

1. Produces satisfactory evidence to the board of having had the required secondary and professional education and training.

2. Is possessed of good morals as demanded of applicants for licensure and relicensure under this chapter.

3. Presents proof to the board's satisfaction that the person is licensed by a pharmacist licensure examination and that the person holds the license in good standing.

4. Presents proof to the board's satisfaction that any other license granted to the applicant by any other jurisdiction has not been suspended, revoked or otherwise restricted for any reason except nonrenewal or for failure to obtain the required continuing education credits in any jurisdiction where the applicant is currently licensed but not engaged in the practice of pharmacy.

5. Passes a board-approved jurisprudence examination.

C. Subsection B of this section applies only if the jurisdiction in which the person is licensed grants, under like conditions, reciprocal licensure as a pharmacist to a pharmacist who is licensed by examination in this state and the person holds a license in good standing issued by an active member board of the national association of boards of pharmacy.

D. If an applicant for licensure is a graduate of a pharmacy degree program at a school or college of pharmacy that was not recognized by the board at the time of the person's graduation, the applicant shall pass a preliminary equivalency examination approved by the board in order to qualify to take the examinations prescribed in subsection A of this section.

E. The preliminary equivalency examination required pursuant to subsection D of this section shall cover proficiency in English and academic areas the board deems essential to a satisfactory pharmacy curriculum.

F. An applicant who fails the preliminary equivalency examination required pursuant to subsection D of this section shall not retake the preliminary equivalency examination until the applicant files written proof with the board that the applicant has completed additional remedial academic work previously approved by the board to correct deficiencies in the applicant's education that were indicated by the results of the applicant's last preliminary equivalency examination.

G. A pharmacist who has been licensed in this state for at least fifty years shall be granted an honorary certificate of licensure by the board without the payment of the usual renewal fee, but that certificate of licensure does not confer an exemption from any other requirement of this chapter.

H. The board may require a pharmacist who has not been actively engaged in the practice of pharmacy for over one year to serve not more than four hundred hours in an internship training program approved by the board or its designee before the pharmacist may resume the active practice of pharmacy.

I. An applicant must complete the application process within twelve months after submitting the application.

### 32-1923. Interns and intern preceptors; qualifications; licensure; purpose of internship

A. A pharmacist who meets the qualifications established by the board to supervise the training of a pharmacy intern shall comply with the rules of the board and be known as a pharmacy intern preceptor.

B. A person shall not act as a pharmacy intern until that person is licensed by the board. An employer shall verify that a person is currently licensed as a pharmacy intern before the employer allows that person to act as a pharmacy intern.

C. The board shall establish the preliminary educational qualifications for all pharmacy interns, which may include enrollment and attendance in a school or college of pharmacy approved by the board.

D. A pharmacy intern who is currently licensed may be employed in a pharmacy or any other place approved and authorized by the board for training interns and shall receive instruction in the practice of pharmacy, including manufacturing, wholesaling, dispensing of drugs and devices, compounding and dispensing prescription orders, clinical pharmacy, providing drug information, keeping records and making reports required by state and federal laws and other experience that, in the discretion of the board, provides the intern with the necessary experience to practice the profession of pharmacy. Pharmacy interns may compound, dispense and sell drugs, devices and poisons or perform other duties of a pharmacist only in the presence and under the immediate personal supervision of a pharmacist.

E. Intern training and licensure as a pharmacy intern under this section are for the purpose of acquiring practical experience in the practice of the profession of pharmacy before becoming licensed as a pharmacist and are not for the purpose of continued licensure under the pharmacy laws. If a pharmacy intern fails to complete pharmacy education within a period of six years, the intern is not eligible for relicensure as an intern without an acceptable explanation to the board that the intern intends to be and is working toward becoming a pharmacist.

F. The board may accept the experience of a pharmacy intern acquired in another jurisdiction on proper certification by the other jurisdiction.

### 32-1923.01. Pharmacy technicians; pharmacy technician trainees; qualifications; remote dispensing site pharmacies

A. An applicant for licensure as a pharmacy technician must:

1. Be of good moral character.
2. Be at least eighteen years of age.
3. Have a high school diploma or the equivalent of a high school diploma.
4. Complete a training program prescribed by board rules.

5. Pass a board-approved pharmacy technician examination.

B. An applicant for licensure as a pharmacy technician trainee must:

1. Be of good moral character.
2. Be at least eighteen years of age.
3. Have a high school diploma or the equivalent of a high school diploma.

C. Before a pharmacy technician prepares, compounds or dispenses prescription medications at a remote dispensing site pharmacy, the pharmacy technician shall:

1. Complete, in addition to any other board-approved mandatory continuing professional education requirements, a two-hour continuing education program on remote dispensing site pharmacy practices provided by an approved provider.
2. Have at least one thousand hours of experience working as a pharmacy technician in an outpatient pharmacy setting under the direct supervision of a pharmacist.

D. A pharmacy technician working at a remote dispensing site pharmacy:

1. Shall maintain an active, nationally recognized pharmacy technician certification approved by the board.
2. May not perform extemporaneous sterile or nonsterile compounding but may prepare commercially available medications for dispensing, including the reconstitution of orally administered powder antibiotics.

**32-1924. [Licenses; fees; rules; signatures; online profiles](#)**

A. An applicant for licensure as a pharmacist shall pay the board an initial licensure fee of not more than \$500.

B. An applicant for licensure as a pharmacist, intern or pharmacy technician shall pay a fee prescribed by the board that does not exceed \$50 for issuance of a wall license. On payment of a fee of not more than \$50, the board may issue a replacement wall license to a licensee who requests a replacement because the original was damaged or destroyed, because of a change of name or for other good cause as prescribed by the board.

C. An applicant for licensure as an intern shall pay a fee of not more than \$75. A license issued pursuant to this subsection expires five years after it is issued. The board shall adopt rules to prescribe the requirements for the renewal of a license that expires before the pharmacy intern completes the education or training required for licensure as a pharmacist.

D. An applicant for reciprocal licensure as a pharmacist shall pay a fee of not more than \$500 for the application and expense of investigating the applicant's pharmaceutical standing in the jurisdiction in which the applicant is licensed.

E. All pharmacist licenses shall bear the signatures of the executive director and a majority of the members of the board.

F. An applicant for licensure as a pharmacy technician trainee shall submit with the application a fee prescribed by the board that does not exceed \$100. A license issued pursuant to this subsection expires thirty-six months after it is issued. A pharmacy technician trainee license may not be renewed or reissued.

G. An applicant for licensure as a pharmacy technician shall submit with the application a fee prescribed by the board that does not exceed \$100.

H. A licensee shall create an online profile using the board's licensing software.

32-1925. Renewal of license of pharmacists, interns and pharmacy technicians; fees; expiration dates; penalty for failure to renew; continuing education

A. Except for interns and pharmacy technician trainees, the board shall assign all persons who are licensed under this chapter to one of two license renewal groups. Except as provided in section 32-4301, a holder of a license certificate designated in the licensing database as even by way of verbiage or numerical value shall renew it biennially on or before November 1 of the even-numbered year, two years after the last renewal date. Except as provided in section 32-4301, a holder of a license certificate designated in the licensing database as odd by way of verbiage or numerical value shall renew it biennially on or before November 1 of the odd-numbered year, two years after the last renewal date. Failure to renew and pay all required fees on or before November 1 of the year in which the renewal is due suspends the license. The board shall vacate a suspension when the licensee pays all past due fees and reinstatement penalties. Reinstatement penalties shall not exceed \$350. The board may waive collection of a fee or reinstatement penalty due after suspension under conditions established by a majority of the board.

B. A person shall not apply for license renewal more than sixty days before the expiration date of the license.

C. A person who is licensed as a pharmacist or a pharmacy technician and who has not renewed the license for five consecutive years shall furnish to the board satisfactory proof of fitness to be licensed as a pharmacist or a pharmacy technician. A person whose license has lapsed for two or more renewal cycles shall pay the fees for the two most recent renewal cycles and the penalties before being reinstated.

D. Biennial renewal fees for licensure shall be not more than:

1. For a pharmacist, \$250.
2. For a pharmacy technician, \$100.
3. For a duplicate renewal license, \$25.

E. Fees that are designated to be not more than a maximum amount shall be set by the board for the following two fiscal years beginning November 1. The board shall establish fees approximately proportionate to the maximum fee allowed to cover the board's anticipated expenditures for the following two fiscal years. Variation in a fee is not effective except at the expiration date of a license.

F. The board shall not renew a license for a pharmacist unless the pharmacist has complied with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937.

G. The board shall prescribe intern licensure renewal fees that do not exceed \$75. The license of an intern who does not receive specific board approval to renew the intern license or who receives board approval to renew but who does not renew and pay all required fees before the license expiration date is suspended after the license expiration date. The board shall vacate a suspension if the licensee pays all past due fees

and penalties. Penalties shall not exceed \$350. The board may waive collection of a fee or penalty due after suspension under conditions established by the board.

H. The board shall not renew a license for a pharmacy technician unless that person has a current board-approved license and has complied with board-approved mandatory continuing professional education requirements. If a pharmacy technician prepares, compounds or dispenses prescription medications at a remote dispensing site pharmacy, the pharmacy technician shall complete, in addition to any other board-approved mandatory continuing professional education requirements, a two-hour continuing education program on remote dispensing site pharmacy practices provided by an approved provider.

#### 32-1926. Notice of change of information required

A. Except as prescribed in subsection B of this section, a pharmacist, intern, pharmacy technician or pharmacy technician trainee, within ten days after a change in that person's employer, employer's address, home address or contact information, shall electronically update the person's online board profile or give written notice to the board office staff of the new information.

B. Pursuant to board rule, a pharmacist designated as the pharmacist in charge for a permit issued under this chapter shall give immediate notice to the board office staff of the initiation and termination of such responsibility. The pharmacist shall either electronically update the pharmacist's online board profile or give written notice to the board office staff of the new information.

#### 32-1926.01. Change in residency status; written notice required

A. A licensee shall give written notice to the board office staff of a change in the licensee's residency status authorized by the United States citizenship and immigration services.

B. If the licensee's residency status ceases to be authorized by the United States citizenship and immigration services, the licensee shall give written notice to the board office staff that the licensee voluntarily terminates the license.

#### 32-1927. Pharmacists; pharmacy interns; disciplinary action

A. A pharmacist or pharmacy intern is subject to disciplinary action by the board for any of the following:

1. The board determines that the licensee has committed an act of unprofessional conduct.
2. The licensee is found by psychiatric examination to be mentally unfit to practice the profession of pharmacy.
3. The licensee is found to be physically or mentally incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy.
4. The licensee is found to be professionally incompetent to such a degree as to render the licensee unfit to practice the profession of pharmacy.
5. The license was issued through error.

B. A pharmacist or pharmacy intern who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of pharmacy or to be professionally incompetent is subject to any one or combination of the following:

1. A civil penalty of not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

2. A letter of reprimand.

3. A decree of censure.

4. Completion of board-designated continuing pharmaceutical education courses.

5. Probation.

6. Suspension or revocation of the license.

C. The board may charge the costs of formal hearings to the licensee whom it finds to be in violation of this chapter or a rule adopted under this chapter.

D. The board on its own motion may investigate any evidence that appears to show that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy. Any person, and a licensee or permittee of the board must, report to the board any information that appears to show that a pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy. The board or the executive director shall notify the pharmacist or pharmacy intern as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unprofessional conduct for any pharmacist or pharmacy intern to fail to report as required by this subsection.

E. The pharmacy permittee or pharmacist in charge of a pharmacy located in this state must inform the board if a pharmacist or pharmacy intern employed by the pharmacy is terminated because of actions by the pharmacist or pharmacy intern that appear to show that the pharmacist or pharmacy intern is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of pharmacy, along with a general statement of the reasons that led the pharmacy to take the action. The pharmacy permittee or pharmacist in charge of a pharmacy located in this state must inform the board if a pharmacist or pharmacy intern under investigation resigns or if a pharmacist or pharmacy intern resigns in lieu of disciplinary action by the pharmacy. Notification must include a general statement of the reasons for the resignation. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

F. The board or, if delegated by the board, the executive director shall require any combination of mental, physical, psychological, psychiatric or medical competency examinations or pharmacist licensure examinations and conduct necessary investigations including investigational interviews between representatives of the board and the pharmacist or pharmacy intern to fully inform itself about any information filed with the board under this section. These examinations may also include biological fluid testing. The board may require the pharmacist or pharmacy intern, at that person's expense, to undergo assessment by a board-approved substance abuse treatment and rehabilitation program.

G. If after completing its investigation the board finds that the information provided pursuant to this section is not of sufficient seriousness to merit disciplinary action against the license of the pharmacist or pharmacy intern, the board may take any of the following actions:

1. Dismiss if the complaint is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

3. Require the licensee to complete board-designated continuing pharmaceutical education courses.

H. The board shall not disclose the name of the person who provides information regarding a licensee's drug or alcohol impairment or the name of the person who files a complaint if that person requests anonymity.

I. If after completing its investigation the board believes that the information is or may be true, it may request a conference with the pharmacist or pharmacy intern. If the pharmacist or pharmacy intern refuses the invitation for a conference and the investigation indicates that grounds may exist for revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, the board shall issue a formal notice that a hearing be held pursuant to title 41, chapter 6, article 10.

J. If through information provided pursuant to this section or by other means the board finds that the protection of the public health, welfare and safety requires emergency action against the license of a pharmacist or pharmacy intern, the board may restrict a license or order a summary suspension of a license pending proceedings for revocation or other action. If the board acts pursuant to this subsection, the board shall also serve the licensee with a written notice of complaint and formal hearing that sets forth the charges and licensee's right to a formal hearing before the board or an administrative law judge on the charges within sixty days pursuant to title 41, chapter 6, article 10.

K. If after completing the conference the board finds the information provided pursuant to this section is not of sufficient seriousness to merit revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

3. Require the licensee to complete board-designated continuing pharmaceutical education courses.

L. If during a conference the board finds that the information provided pursuant to this section indicates that grounds may exist for revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.

2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.

3. Require the licensee to complete board-designated continuing pharmaceutical education courses.

4. Enter into an agreement with the licensee to discipline the licensee, restrict the licensee's practice or professional activities or rehabilitate, retrain or assess the licensee in order to protect the public and ensure the licensee's ability to safely engage in the practice of pharmacy. The agreement may include at least the following:

(a) Issuance of a letter of reprimand.

(b) Issuance of a decree of censure.

(c) Practice or professional restrictions, such as not acting as a pharmacist in charge or pharmacy intern preceptor or working with another pharmacist.

(d) Rehabilitative, retraining or assessment programs, including:

(i) Board-approved community service.

(ii) Successful completion of additional board-designated continuing pharmaceutical education courses.

(iii) Successful passage of board-approved pharmacist licensure examinations.

(iv) Successful completion of a board-approved substance abuse treatment and rehabilitation program at the licensee's own expense.

(e) A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

(f) A period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may include temporary suspension and any or all of the disciplinary actions, practice or professional restrictions, rehabilitative, retraining or assessment programs listed in this section or any other program agreed to by the board and the licensee.

M. If the board finds that the information provided pursuant to this section and additional information provided during the conference warrants revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.

N. If the licensee wishes to be present at the formal hearing in person or by representation, or both, the licensee must file with the board an answer to the charges in the notice of hearing. The answer must be in writing, be verified under oath and be filed within thirty days after service of the notice of hearing. Failure to answer the board's notice of hearing is deemed an admission of the charges in the notice of hearing.

O. An advisory letter is a nondisciplinary public document.

P. If the board during an investigation determines that a criminal violation might have occurred, it shall disclose its investigative evidence and information to the appropriate criminal justice agency for its consideration.

Q. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.

R. The board may deny a license to an applicant for the grounds prescribed in subsection A of this section.

S. A person who is licensed pursuant to this chapter or by any other jurisdiction and who has a license revoked or suspended shall not obtain a license as a pharmacy intern, pharmacy technician or pharmacy technician trainee or work as a pharmacy intern, pharmacy technician or pharmacy technician trainee without the approval of the board or its designee.

### 32-1927.01. Pharmacy technicians; pharmacy technician trainees; disciplinary action

A. A pharmacy technician or pharmacy technician trainee is subject to disciplinary action by the board for any of the following:

1. The board determines that the licensee has committed an act of unprofessional conduct.
2. The licensee is found by psychiatric examination to be mentally unfit to safely perform the licensee's employment duties.
3. The licensee is found to be physically or mentally incapacitated to such a degree as to render the licensee unfit to safely perform the licensee's employment duties.
4. The licensee is found to be professionally incompetent to such a degree as to render the licensee unfit to safely perform the licensee's employment duties.
5. The license was issued through error.

B. A pharmacy technician or pharmacy technician trainee who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of pharmacy or to be professionally incompetent is subject to any one or combination of the following:

1. A civil penalty of not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.
2. A letter of reprimand.
3. A decree of censure.
4. Completion of board designated continuing education courses.
5. Probation.
6. Suspension or revocation of the license.

C. The board may charge the costs of formal hearings to the licensee whom it finds to be in violation of this chapter or a rule adopted under this chapter.

D. The board on its own motion may investigate any evidence that appears to show that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee. Any person may, and a licensee or permittee of the board must, report to the board any information that appears to show that a pharmacy technician or pharmacy technician trainee is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee. The board or the executive director shall notify the pharmacy technician or pharmacy technician trainee as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unprofessional conduct for any pharmacy technician or pharmacy technician trainee to fail to report as required by this subsection.

E. The pharmacy permittee or pharmacist in charge of a pharmacy located in this state must inform the board if a pharmacy technician or pharmacy technician trainee employed by the pharmacy is terminated because of actions by that person that appear to show that the person is or may be professionally incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the permissible activities of a pharmacy technician or pharmacy technician trainee, along with a general statement of the reasons that led the pharmacy to take the action. The pharmacy permittee or pharmacist in charge of a pharmacy located in this state must inform the board if a pharmacy

technician or pharmacy technician trainee under investigation resigns or if a pharmacy technician or pharmacy technician trainee resigns in lieu of disciplinary action by the pharmacy. Notification must include a general statement of the reasons for the resignation. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

F. The board or, if delegated by the board, the executive director shall require any combination of mental, physical, psychological, psychiatric or medical competency examinations or pharmacy technician licensure examinations and conduct necessary investigations including investigational interviews between representatives of the board and the pharmacy technician or pharmacy technician trainee to fully inform itself about any information filed with the board pursuant to this section. These examinations may also include biological fluid testing. The board may require the licensee, at that person's expense, to undergo assessment by a board approved substance abuse treatment and rehabilitation program.

G. If after completing its investigation the board finds that the information provided pursuant to this section is not of sufficient seriousness to merit disciplinary action against the license of the pharmacy technician or pharmacy technician trainee, the board may take any of the following actions:

1. Dismiss if the complaint is without merit.
2. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.
3. Require the licensee to complete board designated continuing pharmaceutical education courses.

H. The board shall not disclose the name of the person who provides information regarding a licensee's drug or alcohol impairment or the name of the person who files a complaint if that person requests anonymity.

I. If after completing its investigation the board believes that the information is or may be true, it may request a conference with the licensee. If the licensee refuses the invitation for a conference and the investigation indicates that grounds may exist for revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, the board shall issue a formal notice that a hearing be held pursuant to title 41, chapter 6, article 10.

J. If through information provided pursuant to this section or by other means the board finds that the protection of the public health, welfare and safety requires emergency action against the license of a pharmacy technician or pharmacy technician trainee, the board may restrict a license or order a summary suspension of a license pending proceedings for revocation or other action. If the board acts pursuant to this subsection, the board shall also serve the licensee with a written notice of complaint and formal hearing that sets forth the charges made against the licensee and the licensee's right to a formal hearing before the board or an administrative law judge on the charges within sixty days pursuant to title 41, chapter 6, article 10.

K. If after completing the conference the board finds the information provided pursuant to this section is not of sufficient seriousness to merit revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.
2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.
3. Require the licensee to complete board designated continuing pharmaceutical education courses.

L. If during a conference the board finds that the information provided pursuant to this section indicates that grounds may exist for revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.
2. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.
3. Require the licensee to complete board designated continuing pharmaceutical education courses.
4. Enter into an agreement with the licensee to discipline the licensee, restrict the licensee's practice or professional activities or rehabilitate, retrain or assess the licensee in order to protect the public and ensure the licensee's ability to safely engage in the permissible activities of a pharmacy technician or pharmacy technician trainee. The agreement may include at least the following:
  - (a) Issuance of a letter of reprimand.
  - (b) Issuance of a decree of censure.
  - (c) Practice or professional restrictions, such as doing the following only under pharmacist supervision:
    - (i) Entering prescription or patient data.
    - (ii) Initiating or accepting verbal refill authorization.
    - (iii) Counting, pouring, packaging or labeling prescription medication.
    - (iv) Compounding, reconstituting, prepackaging or repackaging drugs.
  - (d) Rehabilitative, retraining or assessment programs, including:
    - (i) Board approved community service.
    - (ii) Successful completion of additional board designated continuing pharmaceutical education courses.
    - (iii) Successful passage of board approved pharmacist technician licensure examinations.
    - (iv) Successful completion of a board approved substance abuse treatment and rehabilitation program at the licensee's own expense.
  - (e) A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.
  - (f) A period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee concerned. Probation may include temporary suspension and any or all of the disciplinary actions, practice or professional restrictions, rehabilitative, retraining or assessment programs listed in this section or any other program agreed to by the board and the licensee.

M. If the board finds that the information provided pursuant to this section and additional information provided during the conference warrants revocation or suspension of a license, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.

N. If the licensee wishes to be present at the formal hearing in person or by representation, or both, the licensee must file with the board an answer to the charges in the notice of hearing. The answer must be in writing, be verified under oath and be filed within thirty days after service of the notice of hearing. Failure to answer the board's notice of hearing is deemed an admission of the charges in the notice of hearing.

O. An advisory letter is a nondisciplinary public document.

P. If the board during an investigation determines that a criminal violation might have occurred, it shall disclose its investigative evidence and information to the appropriate criminal justice agency for its consideration.

Q. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.

R. The board may deny a license to an applicant for the grounds prescribed in subsection A of this section.

S. A person licensed pursuant to this chapter or by any other jurisdiction who has a license revoked or suspended shall not obtain a license as a pharmacy technician or pharmacy technician trainee or work as a pharmacy technician or pharmacy technician trainee without the approval of the board or its designee.

#### 32-1927.02. Permittees; disciplinary action

A. The board may discipline a permittee if:

1. The board determines that the permittee or permittee's employee is guilty of unethical conduct pursuant to section 32-1901.01, subsection A.

2. Pursuant to a psychiatric examination, the permittee or the permittee's employee is found to be mentally unfit to safely engage in employment duties.

3. The board determines that the permittee or the permittee's employee is physically or mentally incapacitated to such a degree as to render the permittee or permittee's employee unfit to safely engage in employment duties.

4. The permit was issued through error.

5. A permittee or permittee's employee allows a person who does not possess a current license issued by the board to work as a pharmacist, pharmacy intern, pharmacy technician or pharmacy technician trainee.

B. A permittee who after a formal hearing is found by the board to be guilty of unethical conduct, to be mentally or physically unable safely to engage in employment duties or to be in violation of this chapter or a rule adopted under this chapter or whose employee after a formal hearing is found by the board to be guilty of unethical conduct, to be mentally or physically unable safely to engage in employment duties or to be in violation of this chapter or a rule adopted under this chapter is subject to any one or combination of the following:

1. A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.

2. A letter of reprimand.

3. A decree of censure.

4. Completion of board-designated pharmacy law continuing education courses.

5. Probation.

6. Suspension or revocation of the permit.

C. The board may charge the costs of formal hearings to the permittee whom it finds to be in violation of this chapter or a rule adopted under this chapter or whose employee it finds to be in violation of this chapter or a rule adopted under this chapter.

D. The board on its own motion may investigate any evidence that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties or is or may be in violation of this chapter or a rule adopted under this chapter. Any person may, and any licensee or permittee must, report to the board any information that appears to show that a permittee or permittee's employee is or may be guilty of unethical conduct, is or may be mentally or physically unable safely to engage in employment duties or is or may be in violation of this chapter or a rule adopted under this chapter. The board or the executive director shall notify the permittee as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. It is an act of unethical conduct for any permittee to fail to report as required by this subsection.

E. The board or, if delegated by the board, the executive director shall require any combination of mental, physical, psychological, psychiatric or medical competency examinations and conduct necessary investigations including investigational interviews between representatives of the board and the permittee or permittee's employee to fully inform itself about any information filed with the board under subsection D of this section. These examinations may also include biological fluid testing. The board may require the permittee or permittee's employee, at that person's expense, to undergo assessment by a board-approved substance abuse treatment and rehabilitation program.

F. If after completing its investigation the board finds that the information provided pursuant to subsection D of this section is not of sufficient seriousness to merit disciplinary action against the permit, the board may take any of the following actions:

1. Dismiss if the complaint is without merit.

2. File an advisory letter. The permittee may file a written response with the board within thirty days after receiving the advisory letter.

3. Require the permittee to complete board-designated pharmacy law continuing education courses.

G. The board shall not disclose the name of the person who provides information regarding a permittee's or permittee's employee's drug or alcohol impairment or the name of the person who files a complaint if that person requests anonymity.

H. If after completing its investigation the board believes that the information is or may be true, it may request a conference with the permittee or permittee's employee. If the permittee or permittee's employee refuses the invitation for a conference and the investigation indicates that grounds may exist for revocation or suspension of a permit, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, the board shall issue a formal notice that a hearing be held pursuant to title 41, chapter 6, article 10.

I. If through information provided pursuant to subsection D of this section or by other means the board finds that the protection of the public health, welfare and safety requires emergency action against the

permit, the board may restrict a permit or order a summary suspension of a permit pending proceedings for revocation or other action. If the board acts pursuant to this subsection, the board shall also serve the permittee with a written notice of complaint and formal hearing that sets forth the charges and the permittee's right to a formal hearing on the charges before the board or an administrative law judge within sixty days pursuant to title 41, chapter 6, article 10.

J. If after completing the conference the board finds the information provided pursuant to subsection D of this section is not of sufficient seriousness to merit revocation or suspension of a permit, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.
2. File an advisory letter. The permittee may file a written response with the board within thirty days after receiving the advisory letter.
3. Require the permittee to complete board-designated pharmacy law continuing education courses.

K. If during a conference the board finds that the information provided pursuant to subsection D of this section indicates that grounds may exist for revocation or suspension of a permit, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it may take the following actions:

1. Dismiss if the information is without merit.
2. File an advisory letter. The permittee may file a written response with the board within thirty days after the permittee receives the advisory letter.
3. Require the permittee to complete board-designated pharmacy law continuing education courses.
4. Enter into an agreement with the permittee to discipline the permittee, restrict the permittee's business activities or rehabilitate or assess the permittee in order to protect the public and ensure the permittee's ability to safely engage in employment duties. The agreement may include, at a minimum, the following disciplinary actions, business activity restrictions and rehabilitative or assessment programs:
  - (a) Issuance of a letter of reprimand.
  - (b) Issuance of a decree of censure.
  - (c) Business activity restrictions, including limitations on the number, type, classification or schedule of drug, device, poison, hazardous substance, controlled substance or precursor chemical that may be manufactured, sold, distributed or dispensed.
  - (d) Successful completion of board-designated pharmacy law continuing education courses.
  - (e) Rehabilitative or assessment programs, including board-approved community service or successful completion of a board-approved substance abuse treatment and rehabilitation program at the permittee's own expense.
  - (f) A civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted under this chapter.
  - (g) A period and terms of probation best adapted to protect the public health and safety and rehabilitate or assess the permittee concerned. Probation may include temporary suspension and any or all of the

disciplinary actions, business practice restrictions, rehabilitative or assessment programs listed in this section or any other program agreed to by the board and the permittee.

L. If the board finds that the information provided pursuant to subsection D of this section and additional information provided during the conference indicate that grounds may exist for revocation or suspension of a permit, probation, issuance of a decree of censure or a letter of reprimand or imposition of a civil penalty, it shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.

M. If the permittee wishes to be present at the formal hearing in person or by representation, or both, the permittee must file with the board an answer to the charges in the notice of hearing. The answer must be in writing, be verified under oath and be filed within thirty days after service of the notice of hearing. Failure to answer the board's notice of hearing is deemed an admission of the charges in the notice of hearing.

N. If the board, during any investigation, determines that a criminal violation might have occurred, it shall disclose its investigative evidence and information to the appropriate criminal justice agency for its consideration.

O. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a permittee.

P. The board may deny a permit to an applicant for the grounds prescribed in subsection A of this section.

Q. If the board approves a permit and the business fails to become operational within nine months after the date the permit is granted, the permit is no longer valid. The board may grant a onetime extension for the business to become operational

**32-1927.03. Persons required to be permitted; formal hearing; disciplinary action**

A. A person that resides in this state or in any other jurisdiction and that sells a narcotic or other controlled substance, a prescription-only drug or device, a nonprescription drug, a precursor chemical or a restricted chemical within or into this state shall hold a valid board-issued permit. If the person does not hold a valid board-issued permit, the person is subject to disciplinary action by the board.

B. A person that after a formal hearing is found by the board to be in violation of subsection A of this section may be subject to a civil penalty not to exceed one thousand dollars for each violation of this chapter or a rule adopted pursuant to this chapter.

C. The board may charge the cost of a formal hearing to the person that the board finds to be in violation of this chapter or a rule adopted pursuant to this chapter or whose employee the board finds to be in violation of this chapter or a rule adopted pursuant to this chapter.

D. The board on its own motion or in response to a complaint may inspect or investigate, or delegate to the executive director the authority to inspect or investigate, any evidence that appears to show a person is or may be acting in violation of subsection A of this section. The board may:

1. Send, or delegate to the executive director the authority to send, a cease and desist letter regarding the person's unauthorized business in this state.

2. Request a conference with the person if the board believes the information is or may be true. If the person refuses the invitation or fails to appear for the conference and the investigation indicates that grounds may exist for the board to impose a civil penalty, the board shall issue a formal notice that a hearing be held pursuant to title 41, chapter 6, article 10.

3. Dismiss the complaint if the complaint is without merit.

32-1928. Hearings; restraining order; judicial review

A. Except as provided in subsection B of this section, a license shall be denied, revoked or suspended or a pharmacist or pharmacy intern shall be placed on probation or censured and a civil penalty imposed only after due notice and a hearing pursuant to title 41, chapter 6, article 10. A licensee shall respond in writing to the board when the licensee receives notice of the hearing.

B. If the board has reasonable grounds to believe and finds that the licensee has been guilty of deliberate and wilful violations, or that the public health, safety and welfare imperatively require immediate action, and incorporates a finding to that effect in its order, the board may order a summary suspension of the license pending a hearing. If the board issues an order of summary suspension, it shall serve the licensee with written notice of the complaint and hearing setting forth the charges and informing the licensee of the licensee's right to the hearing. The board shall institute the hearing within ten days after ordering the summary suspension. Service shall be by personal service as provided by the Arizona rules of civil procedure.

C. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

D. With or without conditions, the board may reinstate the license of any pharmacist or pharmacy intern that it has placed on probation or whose license it has suspended or revoked.

32-1929. Biennial registration of pharmacies, wholesalers, third-party logistics providers, manufacturers and similar places; application

A. Except as provided in section 32-4301, the board shall require and provide for biennial registration of every pharmacy, wholesaler, third-party logistics provider and manufacturer and any other place in which or from which drugs are sold, compounded, dispensed, stocked, exposed, manufactured or offered for sale.

B. Any person desiring to operate, maintain, open or establish a pharmacy, wholesaling firm or manufacturing plant, or any other place in which or from which drugs are manufactured, compounded, dispensed, stocked, exposed, sold or offered for sale, shall apply to the board for a permit before engaging in any such activity.

C. The application for a permit to operate a pharmacy, drug manufacturing facility or wholesaling facility in this state shall be made on a form prescribed and furnished by the board, which, when properly executed, indicates the ownership, trustee, receiver or other person or persons desiring the permit, including the pharmacist responsible to the board for the operation of a pharmacy or drug manufacturing facility, or other individual approved by and responsible to the board for the operation of wholesaling facilities, as well as the location, including the street name and number, and such other information as required by the board to establish the identity, exact location and extent of activities, in which or from which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale.

D. The application for a permit to operate a pharmacy, drug manufacturing facility or wholesaling facility outside of this state that will dispense, sell, transfer or distribute drugs into this state shall be made on a form prescribed and furnished by the board, which, when properly executed, indicates the ownership, trustee, receiver or other person or persons desiring the permit, including the individual approved by and responsible to the board for the operation of the pharmacy, drug manufacturing facility or wholesaling facility, as well as the location, including the street name and number, and such other information as

required by the board to establish the identity, exact location and extent of activities, in which or from which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale.

E. If it is desired to operate, maintain, open or establish more than one pharmacy, or any other place of business in which or from which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale, a separate application shall be made and a separate permit shall be issued for each place, business or outlet.

### 32-1930. Types of permits; restrictions on permits; discontinuance of pharmacy permit

A. On application, the board may issue the following classes or kinds of permits:

1. If approved by the board, a pharmacy, limited service pharmacy, automated prescription-dispensing kiosk, full service wholesale drug, third-party logistics provider, nonprescription drug wholesale and drug manufacturer's permit.

2. Drug packager or drug prepackager permit to an individual or establishment that is currently listed by the United States food and drug administration and has met the requirements of that agency to purchase, repackage, relabel or otherwise alter the manufacturer's original package of an approved drug product with the intent of reselling these items to persons or businesses authorized to possess or resell the repackaged, prepackaged or relabeled drug.

3. A durable medical equipment distributor and compressed medical gas distributor permit and a durable medical equipment supplier and compressed medical gas supplier permit.

B. The board shall deny or revoke a pharmacy permit if a medical practitioner receives compensation, either directly or indirectly, from a pharmacy as a result of the practitioner's prescription orders. This does not include compensation to a medical practitioner who is the owner of a building where space is leased to a pharmacy at the prevailing rate, not resulting in a rebate to the medical practitioner.

C. If a pharmacy permanently discontinues operation, the permittee shall immediately surrender the permit to the executive director. The permittee shall remove all drug signs and symbols, either within or without the premises, and shall remove or destroy all drugs, devices, poisons and hazardous substances.

D. An automated prescription-dispensing kiosk may not contain or dispense a controlled substance as defined in section 36-2501 and the controlled substances act (P.L. 91-513; 84 Stat. 1242; 21 United States Code section 802).

### 32-1931. Permit fees; issuance; expiration; renewals; online profiles

A. The board shall assign the permit of all persons or firms issued under this chapter to one of two permit renewal groups. Except as provided in section 32-4301, a holder of a permit designated in the licensing database as even by way of verbiage or numerical value shall renew it biennially on or before November 1 of the even-numbered year, two years after the last renewal date. Except as provided in section 32-4301, a holder of a permit designated in the licensing database as odd by way of verbiage or numerical value shall renew it biennially on or before November 1 of the odd-numbered year, two years after the last renewal date. Failure to renew and pay all required fees on or before November 1 of the year in which the renewal is due suspends the permit. The board shall vacate a suspension when the permittee pays penalties of not to exceed \$350 and all past due fees. The board may waive collection of a fee or penalty due after suspension under conditions established by a majority of the board.

B. Permit fees that are designated to be not more than a maximum amount shall be set by the board for the following two fiscal years beginning November 1. The board shall establish the fees approximately

proportionate to the maximum fee allowed to cover the board's anticipated expenditures for the following two fiscal years. Variation in a fee is not effective except at the expiration date of the permit.

C. Applications for permits shall be accompanied by the following biennial fees as determined pursuant to subsection B of this section:

1. A drug manufacturer's permit, not more than \$1,000.
2. A pharmacy permit, not more than \$500.
3. A limited service pharmacy permit or an automated prescription-dispensing kiosk permit, not more than \$500.
4. A full service wholesale drug permit or a third-party logistics provider permit, not more than \$1,000.
5. A nonprescription drug wholesale permit, not more than \$500.
6. A drug repackager's permit, not more than \$1,000.
7. A durable medical equipment distributor and compressed medical gas distributor permit, not more than \$200.
8. A durable medical equipment supplier and compressed medical gas supplier permit, not more than \$100.

D. If an applicant is found to be satisfactory to the board, the executive director shall issue to the applicant a permit for each pharmacy, manufacturer, wholesaler or other place of business in which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale, for which application is made.

E. Permits issued under this section are not transferable.

F. If a permittee does not apply for renewal, the permit expires pursuant to subsection A of this section. A person may activate and renew an expired permit by filing the required application and fee. Renewal thirty days after the expiration date of a permit may be made only on payment of the required biennial renewal fee, all past due fees and a penalty of one-half of the amount of the applicable biennial renewal fee. The board may waive the collection of a fee or penalty due after suspension pursuant to conditions prescribed by the board.

G. A permittee shall create an online profile using the board's licensing software.

#### 32-1932.01. Substance abuse treatment and rehabilitation program; private contract; funding

A. The board may establish a program for the treatment and rehabilitation of licensees who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to subsection A of this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.
2. Pursuant to a written request by the board or its executive director, release of all treatment records.

3. Quarterly reports to the board, by case number, regarding each participant's diagnosis, prognosis and recommendations for continuing care, treatment and supervision.

4. Immediate reporting to the board of the name of an impaired licensee who the treating organization believes to be a danger to self or others.

5. Reports to the board, as soon as possible, of the name of a participant who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. The board may allocate an amount of not to exceed twenty dollars from each fee it collects from biennial renewal licenses pursuant to section 32-1925 for the operation of the program established by this section.

D. A licensee who is impaired by alcohol or drug abuse may enter into a stipulation order with the board, or the licensee may be placed on probation or be subject to other action as provided by law.

### 32-1933. Display of license or permit

A. The holder of a permit granted under this chapter shall conspicuously display it in the location to which it applies.

B. A licensee shall maintain the licensee's current renewal license or duplicate current renewal license, if practicing in more than one location, in the practice site for inspection by the board or its designee or review by the public.

C. If a licensee practices in more than one place, the board may issue one or more duplicate current renewal licenses to the licensee on payment of a fee of not more than twenty-five dollars for each duplicate current renewal license

### 32-1934. Pharmacies operated in connection with hospitals; requirements

A. A pharmacy operating in connection with a hospital shall comply with all the provisions of this chapter requiring registration and regulation of pharmacies and with board rules.

B. For a pharmacy operating in connection with a hospital, all of the following apply:

1. In hospitals with fifty beds or more, the pharmacy shall be under the continuous supervision of a pharmacist during the time it is open for pharmacy services, except that the board by rule may establish requirements to allow a pharmacist who is engaged in hospital business to be in other areas of the hospital that are located outside the pharmacy.

2. Except as otherwise provided in this paragraph, in hospitals with fewer than fifty beds, with the written approval and recommendations of the board, the services of a pharmacist shall be required on a part-time basis according to the needs of the hospital, provided that this approval does not allow a person other than a pharmacist to compound, manufacture, dispense, label, package, or process drugs. Hospitals with fewer than fifty beds that are located in a county with a population of less than five hundred thousand persons with the written approval and recommendations of the board, may operate a remote dispensing site pharmacy under the remote supervision of a pharmacist pursuant to section 32-1961.01 during the time the pharmacy is open for pharmacy services.

3. In the pharmacist's absence from the hospital, the supervisory registered nurse may obtain from the pharmacy necessary doses of drugs that are ordered by a medical practitioner and that are needed by a patient in an emergency, according to procedures recommended and approved by the board for each hospital.

4. All drugs and medications furnished from the pharmacy to patients on discharge from the hospital shall be dispensed by a pharmacist, and the medication shall be properly labeled.

5. The pharmacist in charge shall initiate procedures to provide for the administrative and technical guidance in all matters pertaining to acquiring, stocking and dispensing drugs and devices and recordkeeping requirements.

#### 32-1935. Approval of schools and colleges of pharmacy

The board of pharmacy shall adopt and promulgate standards and requirements for approval of schools and colleges of pharmacy.

#### 32-1936. Mandatory continuing professional pharmacy education

A. All pharmacists licensed in this state shall satisfactorily complete approved courses of continuing professional pharmacy education or continue their education by other means in accordance with rules adopted by the board before renewing a license.

B. The board by rule shall establish the form and content of courses for continuing professional pharmacy education and the number of hours required for renewal of a license.

#### 32-1937. Exceptions to continuing education requirements

A. The requirements of continuing professional pharmacy education provided in section 32-1936 do not apply to licensees beginning the date of initial licensure until the date of the first license renewal.

B. The board may make exceptions from the requirements of section 32-1936 in emergency or hardship cases or for good cause shown based on a written request for an exception from the requirements.

C. Pharmacists who are exempted from the requirements of continuing professional pharmacy education pursuant to subsection B of this section shall satisfactorily pass a written examination approved by the board for that purpose before license renewal.

#### 32-1939. Condition of probation; repayment of inspection costs

A. As a condition of probation, the board may require that a licensee or permittee be subject to additional compliance inspections or audits and pay the reasonable costs of these inspections and audits. These costs shall not exceed one thousand dollars. The board shall limit these additional inspections to no more than two per year.

B. Monies received pursuant to subsection A of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona state board of pharmacy fund.

C. If a licensee or permittee fails to comply with a board order regarding the costs of additional inspections and audits, the board may enforce its order in the superior court in Maricopa County. The board may also impose additional sanctions against the licensee or permittee.

#### 32-1940. Investigations; hearings; conferences; records; confidentiality

A. Information received and records kept by the board in connection with investigations conducted pursuant to this chapter are confidential and are not open to the public or subject to civil discovery.

B. Notwithstanding any other law or code of ethics regarding practitioner confidences, the physician-patient privilege between a medical practitioner and a patient, both as it relates to the

competency of the witness and to the exclusion of confidential communications, does not pertain to any board investigations or other proceedings conducted pursuant to this chapter to the extent necessary to determine whether a violation of this chapter has occurred. Communications or records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report, investigation or hearing required or authorized under this chapter.

C. The board, its employees and agents and any other person receiving this information shall keep the identity of the patient confidential at all times.

D. The board shall report evidence of a crime uncovered during an investigation to the appropriate criminal justice agency.

E. This section does not prevent the board from disclosing investigative materials concerning a licensee's alleged violation of this chapter to the licensee, the licensee's attorney, another state or federal regulatory agency or a law enforcement agency.

32-1941. Third-party logistics providers; permit required; designated representative; fingerprinting requirements

A. A third-party logistics provider that engages in logistics services into, within or from this state shall hold a third-party logistics provider permit in this state.

B. A third-party logistics provider shall comply with storage practices, including all of the following:

1. Maintain access to warehouse space of a suitable size to facilitate safe operations, including a suitable area to quarantine a suspect product.

2. Maintain adequate security.

3. Have written policies and procedures to:

(a) Address the receipt, security, storage, inventory, shipment and distribution of a product.

(b) Identify, record and report confirmed significant losses or thefts in the United States.

(c) Correct errors and inaccuracies in inventories.

(d) Provide support for manufacturer recalls.

(e) Prepare for, protect against and address any reasonably foreseeable crisis that affects a facility's security or operation, such as an employee strike, a fire or a flood.

(f) Ensure that any expired product is segregated from other products and returned to the manufacturer, repackager or agent of the manufacturer or repackager or is destroyed.

(g) Maintain records reflecting the receipt and distribution of products and supplies and records of inventories.

(h) Quarantine or destroy a suspect product if directed to do so by the respective manufacturer, wholesale distributor or dispenser or an authorized governmental agency.

C. A third-party logistics provider shall make its facility available to the board for inspection during regular business hours to ensure compliance with this section.

D. A third-party logistics provider shall have a designated representative at each facility who has not been convicted of any felony violation under any federal, state or local law relating to wholesale or retail prescription or over-the-counter dangerous drugs or dangerous devices distribution or the distribution of controlled substances.

E. A third-party logistics provider shall provide the board on the board's request with a list of all manufacturers, wholesale distributors, dispensers and durable medical equipment suppliers for whom the third-party logistics provider provides services at a facility.

F. A third-party logistics provider's designated representative shall have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1, which shall be submitted with the completed application. If the third-party logistics provider changes its designated representative, the new designated representative shall have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1 and submitted to the board before the change in representation is made.

### 32-1961. Limit on dispensing, compounding and sale of drugs

A. Except as otherwise provided in this chapter, it is unlawful for any person to compound, sell or dispense any drugs or to dispense or compound the prescription orders of a medical practitioner, unless that person is a pharmacist or a pharmacy intern acting under the direct supervision of a pharmacist. This subsection does not prevent a pharmacy technician or support personnel from assisting in the dispensing of drugs if this is done pursuant to rules adopted by the board and under the direct supervision of a licensed pharmacist or under remote supervision by a pharmacist.

B. Except as otherwise provided in this chapter, it is unlawful for any person, without placing a pharmacist in active personal charge at each place of business, to:

1. Open, advertise or conduct a pharmacy.
2. Stock, expose or offer drugs for sale at retail, except as otherwise specifically provided.
3. Use or exhibit the title "drug", "drugs", "drugstore", "pharmacy", "apothecary" or "prescription" or any combination of these words or titles or any title, symbol or description of like import or any other term designed to take its place.

#### 32-1961.01. Remote dispensing site pharmacies

A. A remote dispensing site pharmacy shall obtain and maintain a pharmacy license issued by the board.

B. A remote dispensing site pharmacy shall meet all of the following requirements:

1. Either be jointly owned by a supervising pharmacy in this state or be operated under a contract with a pharmacy licensed and located in this state.
2. Be supervised by a pharmacist licensed and located in this state who is designated as the pharmacist who is responsible for the oversight of the remote dispensing site pharmacy.
3. Display a sign visible to the public indicating that the facility is a remote dispensing site pharmacy, that the facility is under continuous video surveillance and that the video is recorded and retained.
4. Use a common electronic recordkeeping system between the supervising pharmacy and the remote dispensing site pharmacy or allow the supervising pharmacy to access all of the remote dispensing site pharmacy's dispensing system records.

C. A pharmacist may supervise one remote dispensing site pharmacy if the pharmacist is also supervising and dispensing in a licensed pharmacy. A pharmacist may supervise up to two remote dispensing site pharmacies if the pharmacist is not simultaneously supervising and dispensing at another licensed pharmacy. A pharmacist may supervise additional remote dispensing site pharmacies with board approval.

D. A remote dispensing site pharmacy may store, hold and dispense all prescription medications. The remote dispensing site pharmacy shall:

1. Maintain a perpetual inventory of controlled substances.
2. Secure schedule II controlled substances that are opioids separately from other prescription medications used by this pharmacy locked by key, combination or other mechanical or electronic means to prohibit access by unauthorized personnel.
3. Require that the controlled substances prescription monitoring program's central database tracking system be queried pursuant to section 36-2606 by a pharmacist who is designated as the pharmacist responsible for the oversight of the remote dispensing site pharmacy before a prescription order for a schedule II controlled substance is dispensed.
4. Comply with any dispensing limits associated with the prescribing of schedule II controlled substances that are opioids.
5. Maintain a continuous system of video surveillance and recording of the pharmacy department for at least sixty days after the date of recording.

E. Each remote dispensing site pharmacy shall maintain a policy and procedures manual, which shall be made available to the board or its agent on request. In addition to any board-approved community pharmacy policy and procedure requirements, the policy and procedures manual shall include all of the following information:

1. A description of how the remote dispensing site pharmacy will comply with federal and state laws, rules and regulations.
2. The procedure for supervising the remote dispensing site pharmacy and counseling the patient or patient's caregiver using audio and visual technology that complies with the health insurance portability and accountability act of 1996.
3. The elements of a monthly inspection of the remote dispensing site pharmacy by the pharmacist who is designated as the pharmacist responsible for the oversight of the remote dispensing site pharmacy, including requirements for documentation and retention of the results of each inspection.
4. The procedure for reconciling on a monthly basis the perpetual inventory of controlled substances to the on-hand count of controlled substances at the remote dispensing site pharmacy.
5. A description of how the remote dispensing site pharmacy will improve patient access to a pharmacist and pharmacy services.

32-1962. New drug; compliance with federal act; exception

A. No person shall manufacture, sell, offer or hold for sale or give away any new drug or device unless it fully complies with the provisions of the federal act.

B. This section shall not apply to the nutritional supplement amygdalin, a cyano-genetic glycoside, also known as laetrile and vitamin B-17, which is processed from the seeds of certain fruits including apricots, peaches and plums.

32-1963. Liability of manager, proprietor or pharmacist in charge of a pharmacy; variances in quality of drugs or devices prohibited

A. The proprietor, manager, and pharmacist in charge of a pharmacy shall be responsible for the quality of drugs and devices sold or dispensed in the pharmacy, except those sold in original packages of the manufacturer.

B. No pharmacist or other person shall manufacture, compound, dispense, or offer for sale or cause to be manufactured, compounded, dispensed, or offered for sale any drug or device under or by a name recognized in the official compendium or the federal act which differs from the standard of strength, purity and quality specified therein as official at the time of manufacture, compounding, dispensing, or offering for sale, nor shall a pharmacist or other person manufacture, compound, dispense, or offer for sale, or cause to be manufactured, compounded, dispensed, or offered for sale, any drug or device, the strength, purity or quality of which falls below the required strength, purity or quality under which it is sold.

C. Within four working days of receiving a request, the proprietor, manager or pharmacist in charge shall provide the following documents relating to the acquisition or disposal of prescription-only and controlled substance medication if this information is requested by an authorized board agent in the course of his official duties:

1. Invoices.
2. Stock transfer documents.
3. Merchandise return memos.
4. Other related documentation.

32-1963.01. Substitution for prescription drugs or biological products; requirements; label; definitions

A. If a medical practitioner prescribes a brand name drug and does not indicate an intent to prevent substitution as prescribed in subsection E of this section, a pharmacist may fill the prescription with a generic equivalent drug.

B. A pharmacist may substitute a biological product for a prescribed biological product only if all of the following conditions are met:

1. The United States food and drug administration has determined the substituted product to be an interchangeable biological product.
2. The prescribing physician does not designate in writing or electronically that substitution is prohibited in a manner pursuant to subsection E of this section.
3. The pharmacy informs the patient or person presenting the prescription of the substitution pursuant to subsection C of this section.
4. Within five business days after dispensing a biological product, the dispensing pharmacist or the pharmacist's designee makes an entry of the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed by making an entry that is

electronically accessible to the prescriber through an interoperable electronic medical records system, an electronic prescribing technology, a pharmacy benefit management system, or a pharmacy record. Entry into an electronic records system as described in this paragraph is presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using fax, telephone, electronic transmission or other prevailing means, except that communication is not required if one of the following applies:

(a) There is no interchangeable biological product approved by the United States food and drug administration for the product prescribed.

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

5. The pharmacy retains a record of the biological product dispensed pursuant to section 32-1964, subsection A.

C. Any pharmacy personnel shall notify the person presenting the prescription of the amount of the price difference between the brand name drug or biological product prescribed and the generic equivalent drug or interchangeable biological product, if both of the following apply:

1. The medical practitioner does not indicate an intent to prevent substitution with a generic equivalent drug or interchangeable biological product.

2. The transaction is not subject to third-party reimbursement.

D. The pharmacist shall place on the container the name of the drug or biological product dispensed followed by the words "generic equivalent for" or "interchangeable biological product for" followed by the brand or trade name of the product that is being replaced by the generic equivalent drug or interchangeable biological product. The pharmacist shall include the brand or trade name on the container or label of any contact lenses dispensed pursuant to this chapter.

E. A prescription generated in this state must be dispensed as written only if the prescriber writes or clearly displays "DAW", "dispense as written", "do not substitute" or "medically necessary" or any statement by the prescriber that clearly indicates an intent to prevent substitution on the face of the prescription form. A prescription from out of state or from agencies of the United States government must be dispensed as written only if the prescriber writes or clearly displays "do not substitute", "dispense as written" or "medically necessary" or any statement by the prescriber that clearly indicates an intent to prevent substitution on the face of the prescription form.

F. This section applies to all prescriptions, including those presented by or on behalf of persons receiving state or federal assistance payments.

G. An employer or agent of an employer of a pharmacist shall not require the pharmacist to dispense any specific generic equivalent drug or interchangeable biological product or to substitute any specific generic equivalent drug or interchangeable biological product for a brand name drug or biological product against the professional judgment of the pharmacist or the order of the prescriber.

H. The liability of a pharmacist in substituting according to this section is no greater than that incurred in the filling of a generically written prescription. This subsection does not limit or diminish the responsibility for the strength, purity or quality of drugs provided in section 32-1963. The failure of a prescriber to specify that no substitution is authorized does not constitute evidence of negligence.

I. A pharmacist may not make a substitution pursuant to this section unless the manufacturer or distributor of the generic equivalent drug or interchangeable biological product has shown that:

1. All products dispensed have an expiration date on the original package.
  2. The manufacturer or distributor maintains recall and return capabilities for unsafe or defective drugs or biological products.
- J. The board shall maintain on its public website a link to the current list of each biological product determined by the United States food and drug administration to be an interchangeable biological product.
- K. The labeling and oral notification requirements of this section do not apply to pharmacies serving patients in a health care institution as defined in section 36-401. However, in order for this exemption to apply to hospitals, the hospital must have a formulary to which all medical practitioners of that hospital have agreed and that is available for inspection by the board.

L. For the purposes of this section:

1. "Biological product" has the same meaning prescribed in 42 United States Code section 262.
2. "Brand name drug" means a drug with a proprietary name assigned to it by the manufacturer or distributor.
3. "Formulary" means a list of medicinal drugs.
4. "Generic equivalent" or "generically equivalent" means a drug that has an identical amount of the same active chemical ingredients in the same dosage form, that meets applicable standards of strength, quality and purity according to the United States pharmacopeia or other nationally recognized compendium and that, if administered in the same amounts, will provide comparable therapeutic effects. Generic equivalent or generically equivalent does not include a drug that is listed by the United States food and drug administration as having unresolved bioequivalence concerns according to the administration's most recent publication of approved drug products with therapeutic equivalence evaluations.
5. "Interchangeable biological product" means a biological product that either:
  - (a) The United States food and drug administration has licensed and determined meets the safety standards for determining interchangeability pursuant to 42 United States Code section 262(k)(4).
  - (b) Is determined to be therapeutically equivalent as set forth in the latest edition of the supplement to the United States food and drug administration's approved drug products with therapeutic equivalence evaluations.

**32-1964. [Record of prescription orders; inspections; confidentiality](#)**

- A. Every proprietor, manager or pharmacist in charge of a pharmacy shall keep in the pharmacy a book or file in which that person places the original of every prescription order of drugs, devices or replacement soft contact lenses that are compounded or dispensed at the pharmacy. This information shall be serially numbered, dated and filed in the order in which the drugs, devices or replacement soft contact lenses were compounded or dispensed. A prescription order shall be kept for at least seven years. The proprietor, manager or pharmacist shall produce this book or file in court or before any grand jury on lawful order. The book or file of original prescription orders is open for inspection at all times by the prescribing medical practitioner, the board and its agents and officers of the law in performance of their duties.
- B. The board, by rule, shall permit pharmacies to maintain the book or file of all original prescription orders by means of electronic media or image of the original prescription order maintained in a retrievable format in a form that contains information the board requires to provide an adequate record of drugs, devices or replacement soft contact lenses compounded or dispensed.

C. The board, by rule, shall require a similar book or file for a hospital pharmacy in a form that contains information the board requires to provide an adequate record of drugs compounded or dispensed. A prescription order or medication order must be kept for at least seven years. The administrator, manager or pharmacist must produce this book or file in court or before any grand jury on lawful order. The book or file of original prescription orders or medication orders is open for inspection at all times by the prescribing medical practitioner, the board and its agents and officers of the law in performance of their duties.

D. A pharmacist, pharmacy permittee or pharmacist in charge shall comply with applicable state and federal privacy statutes and regulations when releasing patient prescription information.

### 32-1965. Prohibited acts

The following acts or the causing of any thereof, in addition to any others so specified in this chapter, are prohibited:

1. The manufacture, sale, holding or offering for sale of any drug, device, poison, or hazardous substance that is adulterated or misbranded.
2. The adulteration or misbranding of any drug, device, poison, or hazardous substance.
3. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a drug, device, poison, or hazardous substance, if such act is done while such article is held for sale and results in such article being adulterated or misbranded.
4. The manufacture, sale, holding or offering for sale of a counterfeit drug or forging, counterfeiting, simulating, or falsely representing or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under the provisions of this chapter, or of the federal act.
5. The using, on the labeling of any drug or device, or in any advertisement, relating to such drug or device, of any representation or suggestion that such drug or device complies with the provisions of this chapter.
6. In the case of a prescription-only drug or a controlled substance that requires a prescription order by state or federal law, the failure of the manufacturer, packer, or distributor to transmit, to any medical practitioner who makes a written request for information about such drug, true and correct copies of all printed matter included in any package in which that drug is distributed or other printed matter approved under the federal act.
7. Engaging in the practice of pharmacy without first having a current license in good standing issued by the board.
8. Making or offering to make a forged, counterfeit, altered or photocopied prescription or drug order for the purpose of obtaining prescription-only or controlled substance drugs.

### 32-1966. Acts constituting adulteration of a drug or device

A drug or device shall be deemed to be adulterated:

1. If it consists in whole or in part of any filthy, putrid or decomposed substance.
2. If it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth, or is not securely protected from dust, dirt, and, as far as may be necessary

by all reasonable means, from all foreign or injurious contamination, or whereby it may have been rendered injurious to health.

3. If the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug or device meets the requirements of this chapter as to safety and has the identity and strength, and meets the quality, which it is represented to possess.

4. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

5. If:

(a) It bears or contains a color additive which is unsafe within the meaning of the federal act.

(b) It is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, and is unsafe within the meaning of the federal act.

6. If it is a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label.

7. If it is not subject to the provisions of paragraph 6 of this section and its strength differs from, or its purity or quality falls below that which it purports or is represented to possess.

8. If it is a drug or device to which any substance has been mixed or packed therewith so as to reduce its quality or strength, or to be substituted for it in whole or in part.

[32-1967. Acts constituting misbranding of a drug or device; exceptions; interpretation of misleading label; definition](#)

A. A drug or device is misbranded:

1. If its labeling is false or misleading in any particular.

2. If in package form unless it bears a label containing both:

(a) The name and place of business of the manufacturer, packer or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

3. If any word, statement or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling. Compliance with the federal act shall be deemed compliance with this chapter except for compliance with paragraph 16 of this subsection.

4. If it is for use by humans and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote or sulfonmethane, or any chemical derivative of such substance, which derivative or other substance has been found to be habit-forming, unless its label bears the name and quantity or proportion of such substance or derivative.

5. If it is a drug unless its label bears, to the exclusion of any other nonproprietary name, both:

- (a) The established name of the drug, if there is an established name.
- (b) In case it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glycosides, mercury, strychnine or thyroid, or derivative or preparation of any such substances, provided that the requirements for stating the quantity of the active ingredients, other than those specifically named in this subdivision, apply only to prescription drugs.
6. Unless its labeling bears both:
- (a) Adequate directions for use.
- (b) Adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in a manner and form as are necessary for the protection of users.
7. If it is recognized in an official compendium, unless it is packed and labeled as prescribed in such compendium, provided that the method of packing may be modified with the consent of the board.
8. If it has been found by the board to be a drug or device liable to deterioration, unless it is packaged in that form and manner, and its label bears a statement of such precautions, as the rules issued by the board require as necessary for the protection of public health.
9. If its container is so made, formed or filled as to be misleading.
10. If it is an imitation of another drug or device.
11. If it is offered for sale under the name of another drug or device.
12. If it is dangerous to health when used in the dosage or manner or with the frequency or duration prescribed, recommended or suggested in the labeling of the drug or device.
13. If it is a color additive, the intended use of which in or on drugs or devices is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive in the federal act or board rule.
14. In the case of any prescription-only drug or controlled substance distributed or offered for sale in this state, unless the manufacturer, packer or distributor of such drug or substance includes in all advertisements and other printed matter with respect to that drug a true statement of:
- (a) The established name.
- (b) The formula showing quantitatively each ingredient.
- (c) Other information in brief summary relating to side effects, contraindications or effectiveness as required in board rules or the federal act.
15. If a trademark, trade name or other identifying mark, imprint or device of another drug or device or any likeness of another drug or device has been placed on the drug or device or on its container with intent to defraud.

16. In the case of any prescription-only drug or controlled substance, if in final dosage form unless it bears a label containing both:

- (a) The name and place of business of the manufacturer, and if different, the packer or distributor.
- (b) An accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

17. In the case of any foreign dangerous drug, if it is not approved by the United States food and drug administration or is obtained outside of the licensed supply chain regulated by the United States food and drug administration, the board or the department of health services. This paragraph does not apply to a foreign dangerous drug that is authorized for use by a state law or that is imported lawfully under the federal food, drug, and cosmetic act (21 United States Code section 301, et seq.) or pursuant to an announcement by the United States food and drug administration of the exercise of enforcement discretion for instances including clinical research purposes, drug shortages, development of countermeasures against chemical, biological, radiological and nuclear terrorism agents or pandemic influenza preparedness and response.

B. Drugs and devices that are to be processed, labeled or repacked at establishments other than those where originally processed or packed are exempt from any labeling or packaging requirements of this chapter, provided that such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with board rules or under the federal act.

C. If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device or any combination of them, but also the extent to which the labeling fails to reveal facts material in the light of such representations, or material with respect to consequences that may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual.

D. A drug or device is not considered misbranded if it is either of the following:

- 1. Intended for use in pharmaceutical compounding by a licensed pharmacist, physician, drug manufacturer or distributor or registered outsourcing facility in compliance with the requirements of this chapter and the federal food, drug, and cosmetic act (21 United States Code section 321).
- 2. Mislabeled or incorrectly filled because of a filling error by a pharmacy or a pharmacist.

E. This section does not apply to any drug or device, whether or not approved by the United States food and drug administration, that is manufactured, packed or distributed for use in pharmaceutical compounding by a licensed pharmacist, physician, drug manufacturer or distributor or registered outsourcing facility in compliance with the requirements of this chapter and the federal food, drug, and cosmetic act (21 United States Code section 321).

F. For the purposes of this section, "dangerous drug" means any drug that is unsafe for self-use in humans or animals and includes:

- 1. Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription", "Rx only", or words of similar import.
- 2. Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_", "Rx only", or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

3. Any other drug or device that by federal or state law can be lawfully dispensed only on prescription.

[32-1968. Dispensing prescription-only drug; prescription orders; refills; labels; misbranding; dispensing soft contact lenses; opioid antagonists](#)

A. A prescription-only drug shall be dispensed only under one of the following conditions:

1. By a medical practitioner in conformance with section 32-1921.
2. On a written prescription order bearing the prescribing medical practitioner's manual signature.
3. On an electronically transmitted prescription order containing the prescribing medical practitioner's electronic or digital signature.
4. On a written prescription order generated from electronic media containing the prescribing medical practitioner's electronic or manual signature. A prescription order that contains only an electronic signature must be applied to paper that uses security features that will ensure the prescription order is not subject to any form of copying or alteration.
5. On an oral prescription order that is reduced promptly to writing and filed by the pharmacist.
6. By refilling any written, electronically transmitted or oral prescription order if a refill is authorized by the prescriber either in the original prescription order, by an electronically transmitted refill order that is documented promptly and filed by the pharmacist or by an oral refill order that is documented promptly and filed by the pharmacist.
7. On a prescription order that the prescribing medical practitioner or the prescribing medical practitioner's agent transmits by fax or e-mail.
8. On a prescription order that the patient transmits by fax or by e-mail if the patient presents a written prescription order bearing the prescribing medical practitioner's manual signature when the prescription-only drug is picked up at the pharmacy.

B. A prescription order shall not be refilled if it is either:

1. Ordered by the prescriber not to be refilled.
2. More than one year since it was originally ordered.

C. A prescription order shall contain the date it was issued, the name and address of the person for whom or owner of the animal for which the drug is ordered, refills authorized, if any, the legibly printed name, address and telephone number of the prescribing medical practitioner, the name, strength, dosage form and quantity of the drug ordered and directions for its use.

D. Any drug dispensed in accordance with subsection A of this section is exempt from the requirements of section 32-1967, except section 32-1967, subsection A, paragraphs 1, 10 and 11 and the packaging requirements of section 32-1967, subsection A, paragraphs 7 and 8, if the drug container bears a label containing the name and address of the dispenser, the serial number, the date of dispensing, the name of the prescriber, the name of the patient, or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the order. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or the internet or to a drug dispensed in violation of subsection A of this section.

E. The board by rule also may require additional information on the label of prescription medication that the board believes to be necessary for the best interest of the public's health and welfare.

F. A prescription-only drug or a controlled substance that requires a prescription order is deemed to be misbranded if, at any time before dispensing, its label fails to bear the statement "Rx only". A drug to which subsection A of this section does not apply is deemed to be misbranded if, at any time before dispensing, its label bears the caution statement quoted in this subsection.

G. A pharmacist may fill a prescription order for soft contact lenses only as provided in this chapter.

H. A pharmacist may dispense naloxone hydrochloride or any other opioid antagonist that is approved by the United States food and drug administration on the receipt of a standing order and according to protocols adopted by the board pursuant to section 32-1979. For the purposes of this subsection, "standing order" means a signed prescription order that authorizes the pharmacist to dispense naloxone hydrochloride or any other opioid antagonist for emergency purposes and that is issued by a medical practitioner licensed in this state or a state or county health officer who is a medical practitioner licensed in this state.

#### 32-1969. Filling foreign prescription orders; records; exception

A. This chapter does not prohibit a pharmacist or an intern under a pharmacist's supervision from filling a new written prescription order for a drug or device issued by a medical practitioner licensed by the appropriate licensing board of a foreign country.

B. The proprietor, manager or pharmacist in charge of a pharmacy shall keep a separate record of prescriptions filled pursuant to this section.

C. A pharmacist or intern shall not fill a prescription order issued by a medical practitioner licensed by the appropriate licensing board of a foreign country for a controlled substance as defined pursuant to title 36, chapter 27, article 2 or the rules adopted pursuant to title 36, chapter 27, article 2.

#### 32-1970. Initiating, monitoring and modifying drug therapy and use; conditions; definitions

A. A pharmacist who is licensed pursuant to this chapter may initiate, monitor and modify drug therapy and use only under the following circumstances:

1. The patient's drug therapy and use are pursuant to a provider.

2. The pharmacist complies with rules adopted by the board of pharmacy.

3. The pharmacist follows the written drug therapy management protocols prescribed by the provider who made the diagnosis and initiates, monitors or modifies a person's drug therapy and use only pursuant to those protocols. Each protocol developed pursuant to the drug therapy agreement shall contain detailed directions concerning the actions that the pharmacist may perform for a patient referred by the provider. The protocol shall specify, at a minimum, the specific drug or drugs to be managed by the pharmacist, the conditions and events for which the pharmacist must notify the provider and the laboratory tests that may be ordered. A provider who enters into a protocol-based drug therapy agreement must have a legitimate provider-patient relationship.

B. A licensee who violates this section commits an act of unprofessional conduct.

C. A pharmacist is responsible for the pharmacist's negligent acts that are the result of the pharmacist's change of medication or that relate to patient drug usage pursuant to drug therapy management protocols.

This subsection does not limit a provider's liability for negligent acts that are not related to a pharmacist's change of medication pursuant to the protocols.

D. For the purposes of this section:

1. "Initiate, monitor and modify":

(a) Means that a pharmacist may perform specific acts as authorized by a provider pursuant to written guidelines and protocols.

(b) Does not include a pharmacist's selection of drug products that are not prescribed by the provider unless selection of the specific drug product is authorized by the written guidelines and protocols.

2. "Protocol" means a provider's written order, written standing medical order or other written order of protocol as defined by rules adopted by the Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery and the Arizona state board of nursing and that is patient, provider and pharmacist specific for prescriptions or orders given by the provider authorizing the written protocol.

3. "Provider" means a physician who is licensed pursuant to chapter 13 or 17 of this title or a registered nurse practitioner who is licensed pursuant to chapter 15 of this title and who acts as a primary care practitioner.

### 32-1971. [Compounding pharmacies; certain medications; requirements; definitions](#)

A. Chronically ill patients and terminally ill patients have the right to determine, with the assistance and guidance of their health care providers, individual courses of treatment through the use of medications and treatments obtained from a compounding pharmacy.

B. Compounding pharmacies that are licensed in this state shall have access to active pharmaceutical ingredients for use in compounding that meet United States pharmacopeia monographs, if the active pharmaceutical ingredient is prepared for use by a United States food and drug administration-registered active pharmaceutical ingredient manufacturer or packager, is shipped into this state in compliance with state law and arrives with a certificate of analysis detailing quality specifications, including any medications, dietary supplements and amino acids that are already in use by compounding pharmacies in this state, in order to provide chronically ill patients and terminally ill patients with the prescribed individual course of treatment.

C. Subsection B of this section does not apply if the active pharmaceutical ingredient is deemed unsafe for compounding by the federal food and drug administration or is placed on the interim 503A category II bulk drug substance list. Compounding pharmacies may use substances placed on the interim 503A category III bulk drug substance list only if the substance meets the requirements of this section.

D. This section does not allow any treatment or use of medication that is intended to cause the death of the patient.

E. For the purposes of this section:

1. "Chronically ill patient" means a patient whose physician has diagnosed the patient as having a long-term disease or condition that if left untreated may cause major irreversible morbidity and who might benefit from individualized or specialized medication that is not commercially available.

2. "Compounding pharmacy" means a pharmacy that is classified as a 503A pharmacy by the United States food and drug administration.

3. "Monographs" means quality standards for prescription medicines and dietary supplements that articulate the quality expectations for a medicine or dietary supplement, including its identity, strength, purity and performance.

4. "Terminally ill patient" means a patient whose physician has diagnosed the patient with a disease that, taking into account the patient's medical circumstances, will cause the patient's death in a reasonably foreseeable time.

32-1972. Poison or hazardous substances; misbranding and labeling; prohibitions; exemption

A. A poison or hazardous substance shall be misbranded unless the label bears, and accompanied information that it includes or bears, any directions for use which states conspicuously:

1. The name and address of the manufacturer or seller.
2. The common or usual name or the chemical name, if there is no common or usual name, of the poison or hazardous substance or of each component which contributes substantially to its poisonous or hazardous property, unless the board by rule permits or requires the use of a recognized generic name.
3. The signal words "poison" and "danger" and the skull and crossbones symbol on poisons or hazardous substances which are highly toxic.
4. The signal word "danger" on poisons or hazardous substances that are corrosive.
5. The signal word "warning" or "caution" on all other poisons or hazardous substances.
6. An affirmative statement as to the principal poisonous property, such as "flammable", "vapor harmful", "causes burns", "absorbed through skin", or similar wording descriptive of the poison or hazardous substance.
7. Precautionary measures describing the action to be followed or avoided.
8. Instruction, when necessary or appropriate, for first-aid treatment.
9. Instructions for handling and storage of packages which require special care in handling or storage.
10. The statement "keep out of reach of children" or its practical equivalent, or, if the poison or hazardous substance is intended for use by children, adequate directions for the protection of children from the poison or hazardous substance.
11. Directions for using the poison or hazardous substance.

B. A poison or hazardous substance is also misbranded by the reuse of a food, drug or cosmetic container, or in a container which, though not reused, is identifiable as a food, drug or cosmetic container by its labeling or by other identification, as a container for the poison or hazardous substance.

C. Any statement required on the label of a poison or hazardous substance under subsection A shall be:

1. Located prominently.
2. In the English language.
3. In conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

D. If the board finds that the requirements of subsections A and B are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular poison or hazardous substance, it may establish by rule such reasonable variations or additional label requirements as it finds necessary, and any such poison or hazardous substance intended, or packaged in a form suitable, for use in the household or by children which fails to bear a label in accordance with such rules shall be deemed to be a misbranded poison or hazardous substance.

E. If the board finds that, because of the size of the package involved or because of the minor hazard presented by the poison or hazardous substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this section is impracticable or is not necessary for the adequate protection of the public health and safety, the board shall adopt rules exempting such poisons or hazardous substances from these requirements to the extent they determine to be consistent with adequate protection of the public health and safety.

F. If the board finds that the poisonous or hazardous nature of a poison or hazardous substance subject to this section is such that the labeling adequate to protect the public health and safety cannot be devised, or the poison or hazardous substance presents an imminent danger to the public health and safety, the board by rule may restrict the sale of such poison or hazardous substance or declare it to be banned and require its removal from commerce.

G. The board shall conform the rules adopted under this section as far as practicable with the regulations established pursuant to the federal hazardous substances act.

#### 32-1973. Pharmacies; quality assurance

A. As prescribed by the board by rule, each pharmacy shall implement or participate in a continuous quality assurance program to review pharmacy procedures in order to identify methods for addressing pharmacy medication errors. The rules shall prescribe requirements to document compliance and any other provisions necessary for the administration of the program.

B. Records that are generated as a component of a pharmacy's ongoing quality assurance program and that are maintained for that program are peer review documents and are not subject to subpoena or discovery in an arbitration or civil proceeding. This subsection does not prohibit a patient from accessing the patient's prescription records or affect the discoverability of any records that are not generated only as a component of a pharmacy's ongoing quality assurance program and maintained only for that program.

C. A pharmacy meets the requirements of this section if it holds a current general, special or rural general hospital license from the department of health services and is any of the following:

1. Certified by the centers for medicare and medicaid services to participate in the medicare or medicaid programs.
2. Accredited by the joint commission on the accreditation of health care organizations.
3. Accredited by the American osteopathic association.

#### 32-1974. Pharmacists; administration of immunizations, vaccines and emergency medications; certification; reporting requirements; advisory committee; definitions

A. Except as prescribed pursuant to subsection I of this section, a pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may administer the following to adults without a prescription order pursuant to rules and protocols adopted by the board pursuant to this section:

1. Immunizations or vaccines recommended for adults by the United States centers for disease control and prevention.

2. Immunizations or vaccines recommended by the United States centers for disease control and prevention's health information for international travel.

B. A pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may administer the following to minors without a prescription order pursuant to rules and protocols adopted by the board pursuant to this section:

1. Influenza immunizations or vaccines to a person who is at least three years of age.

2. Booster doses for the primary adolescent series as recommended by the United States centers for disease control and prevention.

3. Immunizations or vaccines recommended by the United States centers for disease control and prevention to a person who is at least thirteen years of age.

C. Except as prescribed in subsection B of this section, a pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may administer immunizations and vaccines, including the first dose for the primary adolescent series, to a person who is at least six years of age but under thirteen years of age only with a prescription order and pursuant to rules and protocols adopted by the board pursuant to this section.

D. A pharmacist who wishes to administer immunizations and vaccines pursuant to this section must be certified to do so by the board. The board shall issue a certificate to a pharmacist who meets board requirements for certification as prescribed by the board by rule.

E. A pharmacist who is certified to administer immunizations and vaccines pursuant to this section may administer without a prescription order:

1. Emergency medication to manage an acute allergic reaction to an immunization, vaccine or medication in accordance with the United States centers for disease control and prevention immunization guidelines.

2. Immunizations or vaccines to any person regardless of age during a public health emergency response of this state pursuant to section 36-787.

F. A pharmacist who administers an immunization, vaccine or emergency medication pursuant to this section must:

1. Report the administration to the person's identified primary care provider or physician within forty-eight hours after administering the immunization, vaccine or emergency medication and as prescribed by the board by rule. The pharmacist shall make a reasonable effort to identify the person's primary care provider or physician by one or more of the following methods:

(a) Checking any adult immunization information system or vaccine registry established by the department of health services.

(b) Checking pharmacy records.

(c) Requesting the information from the person or, in the case of a minor, the person's parent or guardian.

2. Report information to any adult immunization information system or vaccine registry established by the department of health services.

3. Maintain a record of the immunization pursuant to title 12, chapter 13, article 7.1 and as prescribed by the board by rule.

4. Report to the person's identified primary care provider or physician, within twenty-four hours of occurrence, any adverse reaction that is reported to or witnessed by the pharmacist and that is listed by the vaccine manufacturer as a contraindication to further doses of the vaccine.

5. Participate in any federal vaccine adverse event reporting system or successor database.

G. This section does not establish a cause of action against a patient's primary care provider or physician for any adverse reaction, complication or negative outcome arising from the administration of any immunization, vaccine or emergency medication by a pharmacist to the patient pursuant to this section if it is administered without a prescription order written by the patient's primary care provider or physician.

H. The board shall adopt rules for the administration of vaccines or immunizations pursuant to this section regarding:

1. Protocols that are based on protocols approved by the United States centers for disease control and prevention and any advisory committee appointed by the board for the purpose of recommending protocols.

2. Recordkeeping and reporting requirements.

3. Requirements and qualifications for pharmacist certification pursuant to this section.

4. Vaccine information and educational materials for those requesting vaccines and immunizations.

5. The administration of emergency medication pursuant to this section.

I. The department of health services, by rule, shall establish and maintain a list of immunizations or vaccines that may be administered to adults by a pharmacist only pursuant to a prescription order. In adopting and maintaining this list, the department is exempt from the rulemaking requirements of title 41, chapter 6. The department shall adopt its initial rules within six months after receipt of the recommendations of the advisory committee appointed by the board and shall hold one public hearing before implementing the rules and any amendments to the rules. The list shall include those immunizations or vaccines listed in the United States centers for disease control and prevention's recommended adult immunization schedule or recommended by the United States centers for disease control and prevention's health information for international travel that have adverse reactions that could cause significant harm to a patient's health. A pharmacist may not administer immunizations or vaccines without a prescription order pursuant to this section before the department has established the list pursuant to this subsection. The board may not authorize a pharmacist to administer new immunizations or vaccines without a prescription order pursuant to this section until the department reviews the new immunizations and vaccines to determine if they should be added to the list established pursuant to this subsection.

J. The board may appoint an advisory committee to assist the board in adopting and amending rules and developing protocols relating to the administration of immunizations, vaccines and emergency medications and certification requirements.

K. A pharmacy intern who is certified by the board to administer immunizations and vaccines pursuant to this section may do so only in the presence and under the immediate personal supervision of a pharmacist who is certified as prescribed in this section.

L. This section does not prevent a pharmacist who administers an immunization or vaccine from participating in the federal vaccines for children program.

M. A pharmacist may not administer an immunization or vaccine to a minor without the consent of the minor's parent or guardian.

N. For the purposes of this section:

1. "Emergency medication" means emergency epinephrine and antihistamines in accordance with the United States centers for disease control and prevention immunization guidelines.

2. "Primary adolescent series" means those immunizations or vaccines recommended by the United States centers for disease control and prevention for children starting at age eleven or twelve.

32-1975. Legend drug products; listing; code identification; exemption; definitions

A. A legend drug product in finished solid dosage form shall not be manufactured or commercially distributed within this state unless it is clearly or prominently marked or imprinted with a code imprint identifying the drug product and the manufacturer or distributor of the drug.

B. All manufacturers or distributors of legend drugs in solid dosage form shall make available on request to the board a listing of all such legend drugs identifying by code imprint the manufacturer or distributor and the specific type of drug. The listing shall at all times be kept current by all manufacturers and distributors subject to this section.

C. The board may grant exemptions from the requirements of this section on application of any drug manufacturer or distributor showing size, physical characteristics or other unique characteristics that render the application of a code imprint to a legend drug subject to this section impractical or impossible. Any exemption granted by the board shall be included by the manufacturer or distributor in the listing required by subsection B of this section, describing the physical characteristics and type of drug to which the exemption relates.

D. This section does not apply to drug products compounded by a pharmacist licensed under section 32-1924 in a pharmacy operating under a permit issued by the board.

E. For the purposes of this section:

1. "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug or marks or monograms unique to the manufacturer or distributor of the drug, or both.

2. "Distributor" means a person who distributes for resale a drug in solid dosage form under that person's own label even if that person is not the actual manufacturer of the drug.

3. "Legend drug" means any drug defined by section 503(b) of the federal food, drug and cosmetic act and under which definition its label is required to bear the statement "Rx only".

4. "Solid dosage form" means capsules or tablets intended for oral use.

32-1976. Dispensing replacement soft contact lenses; prescription

A. A prescription order for replacement soft contact lenses may be dispensed under the following conditions:

1. The prescription order shall be in the form required by this chapter and shall include the name of the prescribing physician or optometrist.

2. The prescription order contains the date of issuance.

3. The prescription order for contact lenses includes the lens brand name, type, tint and all other specifications necessary to accurately dispense the prescription.

B. The prescription shall be dispensed with the exact lenses prescribed and no substitutions shall be made. The expiration date of the prescription shall be the earlier of the expiration date provided by the prescribing physician or optometrist or one year after the date of issuance. A refill of a prescription that is within sixty days of its expiration date shall be filled with no more than the sufficient quantity of replacement soft contact lenses needed through the expiration date.

C. The prescription shall be dispensed with a written notice containing the following wording or its substantial equivalent:

Warning: If you are having any unexplained eye discomfort, watering, vision change or redness, remove your lenses immediately and consult your eye care practitioner before wearing your lenses again.

D. Any advertisement by a pharmacy or pharmacist for replacement soft contact lenses shall include all charges associated with the purchase of replacement soft contact lenses from the pharmacy or pharmacist.

32-1977. Sale of methamphetamine precursors by a pharmacy permittee; electronic sales tracking system; violation; classification; state preemption

A. A permittee under this chapter shall not sell to the same person, and a person shall not purchase, products containing more than three and six-tenths grams per day or more than nine grams per thirty-day period of ephedrine or pseudoephedrine base, or their salts, isomers or salts of isomers. These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

B. The permittee must keep nonprescription products containing pseudoephedrine or ephedrine behind the counter or in a locked case where a customer does not have direct access.

C. The permittee shall require a person purchasing a nonprescription product that contains pseudoephedrine or ephedrine to present valid government-issued photo identification at the point of sale. The permittee shall record all of the following:

1. The name and address of the purchaser.

2. The name and quantity of product purchased.

3. The date and time of purchase.

4. Purchaser identification type and number.

D. Before completing a sale pursuant to this section, a permittee must use an electronic sales tracking system and electronically submit the required information to the national precursor log exchange administered by the national association of drug diversion investigators if the system is available to permittees without a charge for access. For the purposes of this subsection, "available to permittees without a charge for access":

1. Includes:

(a) Access to the web-based electronic sales tracking software, including inputting and retrieving data free of charge.

(b) Training free of charge.

(c) Technical support to integrate to point of sale vendors without a charge, if necessary.

2. Does not include:

(a) Costs relating to required internet access.

(b) Optional hardware that a pharmacy may choose to purchase for workflow purposes.

(c) Other equipment.

E. If a permittee that sells a nonprescription product containing pseudoephedrine or ephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirements of this section, the permittee must maintain a written log or an alternative electronic recordkeeping mechanism until the permittee is able to comply with the electronic sales tracking system requirements. A permittee that does not have internet access to the electronic sales tracking system is compliant with the requirements of this section if the retailer maintains a written log or an alternative electronic recordkeeping mechanism.

F. The national association of drug diversion investigators shall forward state transaction records in the national precursor log exchange to the board of pharmacy each week and provide real-time access to the national precursor log exchange information through the national precursor log exchange online portal to law enforcement in this state as authorized by the board of pharmacy.

G. The system prescribed in this section must be capable of generating a stop sale alert notification that completing the sale would result in the permittee or purchaser violating the quantity limits prescribed in this section. The permittee may not complete the sale if the system generates a stop sale alert. The electronic sales tracking system prescribed in this section must contain an override function that may be used by dispensers of ephedrine or pseudoephedrine who have a reasonable fear of imminent bodily harm if they do not complete a sale. The system must log each instance that a permittee uses the override function.

H. A person who violates this section is guilty of a class 3 misdemeanor, punishable by fine only.

I. This section does not apply to a person who obtains the product pursuant to a valid prescription order.

J. The reporting of sales of ephedrine or pseudoephedrine products is of statewide concern. The regulation of sales pursuant to this section is not subject to further regulation by a county, city, town or other political subdivision of this state.

32-1978. Sale of dextromethorphan; age requirement; exception; violation; civil penalty; definitions

A. It is prohibited for:

1. Any commercial entity to knowingly or wilfully sell or trade a finished drug product containing any quantity of dextromethorphan to a person who is under eighteen years of age.

2. Any person who is under eighteen years of age to purchase a finished drug product containing any quantity of dextromethorphan.

3. Any person to possess, receive or distribute unfinished dextromethorphan, unless the person is registered pursuant to the federal food, drug, and cosmetic act or is appropriately licensed with the board.

B. A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless the person making the sale reasonably presumes the purchaser to be at least twenty-five years of age based on the purchaser's outward appearance.

C. Subsection A of this section does not apply to common carriers that possess, receive or distribute unfinished dextromethorphan for purposes of distributing such unfinished dextromethorphan between persons that are registered under section 510 of the federal food, drug, and cosmetic act or that are appropriately licensed with the board.

D. This section does not impose any compliance requirement on a retail entity other than manually obtaining and verifying proof of age as a condition of sale, including placement of products in a specific place within a store, other restrictions on a consumer's direct access to finished drug products or the maintenance of transaction records.

E. A person who sells or trades a finished drug product containing any quantity of dextromethorphan to a person who is under eighteen years of age shall receive a warning for a first offense and shall pay a civil penalty of fifty dollars for a second offense, unless the person provides documentation that there is an employee training program in place.

F. This section does not apply to a medication containing dextromethorphan that is sold pursuant to a valid prescription.

G. For the purposes of this section:

1. "Common carrier" means any person that holds itself out to the general public as a provider for hire of the transportation of merchandise, whether or not the person actually operates the vehicle by which the transportation is provided within, to or from the United States.

2. "Finished drug product" means a drug that is legally marketed under the federal food, drug, and cosmetic act and that is in finished dosage form.

3. "Unfinished dextromethorphan" means dextromethorphan in any form, compound, mixture or preparation that is not a finished drug product.

### 32-1979. Pharmacists; dispensing opioid antagonists; board protocols; immunity

A. A pharmacist may dispense, pursuant to a standing order issued pursuant to section 36-2266 and according to protocols adopted by the board, naloxone hydrochloride or any other opioid antagonist that is approved by the United States food and drug administration for use according to the protocols specified by board rule to a person who is at risk of experiencing an opioid-related overdose or to a family member or community member who is in a position to assist that person.

B. A pharmacist who dispenses naloxone hydrochloride or any other opioid antagonist pursuant to subsection A of this section shall:

1. Document the dispensing consistent with board rules.

2. Instruct the individual to whom the opioid antagonist is dispensed to summon emergency services as soon as practicable after administering the opioid antagonist.

C. This section does not affect the authority of a pharmacist to fill or refill a prescription for naloxone hydrochloride or any other opioid antagonist that is approved by the United States food and drug administration.

D. A pharmacist who dispenses an opioid antagonist pursuant to this section is immune from professional liability and criminal prosecution for any decision made, act or omission or injury that results from that act if the pharmacist acts with reasonable care and in good faith, except in cases of wanton or wilful neglect.

32-1979.01. Self-administered hormonal contraceptives; requirements; rules; immunity; definition

A. A pharmacist may dispense a self-administered hormonal contraceptive to a patient who is at least eighteen years of age pursuant to a standing prescription drug order made in accordance with subsection B of this section and without any other patient-specific prescription drug order.

B. A prescriber who is licensed to prescribe a self-administered hormonal contraceptive, including a person acting in the prescriber's capacity as an employee of the department of health services or a county health department, may issue a standing prescription drug order authorizing the dispensing of a self-administered hormonal contraceptive. This subsection does not create a duty to act or standard of care for an employee of the department of health services to issue a standing order for a hormonal contraceptive.

C. The board, in conjunction with the department of health services and in consultation with a national professional organization specializing in obstetrics and gynecology, shall adopt rules to establish standard procedures for pharmacists to dispense self-administered hormonal contraceptives pursuant to this section. The standard procedures shall require a pharmacist to do both of the following:

1. Obtain a completed nationally recognized self-screening risk assessment from each patient before dispensing the self-administered hormonal contraceptive to the patient.
2. Provide the patient with information about the self-administered hormonal contraceptive that is dispensed to the patient.

D. A pharmacist or prescriber acting reasonably and in good faith in dispensing or prescribing a self-administered hormonal contraceptive pursuant to this section is not liable for any civil damages for acts or omissions resulting from dispensing that self-administered hormonal contraceptive.

E. All state and federal laws governing insurance coverage of contraceptive drugs, devices, products and services apply to self-administered hormonal contraceptives that are prescribed and dispensed pursuant to this section.

F. This section does not apply to a valid patient-specific prescription for a hormonal contraceptive that is issued by an authorized prescriber and dispensed by a pharmacist pursuant to that valid prescription.

G. For the purposes of this section:

1. "Primary care provider" means a physician who is licensed pursuant to chapter 13, 14 or 17 of this title, a nurse practitioner who is licensed pursuant to chapter 15 of this title or a physician assistant who is licensed pursuant to chapter 25 of this title.

2. "Self-administered hormonal contraceptive":

(a) Means a self-administered hormonal contraceptive that is approved by the United States food and drug administration to prevent pregnancy.

(b) Includes an oral hormonal contraceptive, a hormonal contraceptive vaginal ring and a hormonal contraceptive patch.

32-1979.02. Oral fluoride varnish; prescription and administration authority; requirements

A. A pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may prescribe and administer oral fluoride varnish.

B. A pharmacist who wishes to administer oral fluoride varnish pursuant to this section shall successfully complete a course of training accredited by the accreditation council for pharmacy education on the use of a caries risk assessment and oral fluoride varnish application, or other board-approved training that complies with American dental association guidelines.

C. A pharmacist who administers oral fluoride varnish pursuant to this section shall do all of the following:

1. Perform a caries risk assessment with each patient and make any necessary referrals to a dentist or physician for moderate or high-risk patients within five business days.
2. Provide each patient with a fluoride record card to be shared with other providers to track fluoride treatments.
3. Inform each patient that fluoride varnish is not sufficient dental care and encourage each patient to see a dentist on a regular basis.
4. Make and keep records for at least one year following the administration of oral fluoride varnish.

D. A pharmacist may not give or receive, either directly or indirectly, a payment, kickback, rebate, bonus or other remuneration for a referral to a dentist or physician pursuant to subsection C of this section.

32-1979.03. Tobacco cessation drug therapies; prescription authority; requirements; definition

A. A pharmacist who is licensed pursuant to this chapter and who meets the requirements of this section may prescribe and dispense tobacco cessation drug therapies to a qualified patient. Prescriptive authority is limited to nicotine-replacement tobacco cessation drug therapies, including prescription and nonprescription therapies.

B. A pharmacist who wishes to prescribe and dispense tobacco cessation drug therapies pursuant to this section shall successfully complete a course of training accredited by the accreditation council for pharmacy education in the subject area of tobacco cessation and successfully complete two hours of accreditation council for pharmacy education accredited tobacco cessation continuing education programs on license renewal. The course of training shall include all of the following:

1. Epidemiology and health consequences of tobacco-containing products.
2. Biological, psychological and sociocultural components of tobacco dependence.
3. Assessment of a patient's willingness to quit.
4. Development of a quit plan.
5. Relapse prevention strategies.

6. Approved medications used for nicotine addiction and the effectiveness of current drug therapies for smoking cessation.

7. Nonpharmacological and behavioral interventions.

C. A pharmacist who prescribes and dispenses prescription nicotine-replacement tobacco cessation drug therapies pursuant to this section shall:

1. Notify the qualified patient's designated primary care provider within seventy-two hours after the medication is prescribed.

2. Keep records that include the qualified patient's initial assessment information, the education provided and the medication plan, and any drug therapies prescribed. The records shall be made available to the qualified patient's designated primary care provider on request.

D. This section does not apply to pharmacists who are either:

1. Filling or refilling prescriptions for tobacco cessation products written by another provider.

2. Recommending nonprescription tobacco cessation therapies to a patient without a prescription.

E. For the purposes of this section, "qualified patient" means a patient who:

1. Is at least eighteen years of age.

2. Is enrolled in a structured tobacco cessation program consisting of an initial evaluation and appropriate follow-up visits with the pharmacist or primary care provider if prescribing a prescription nicotine replacement.

3. Has been educated on symptoms of nicotine toxicity and when to seek medical treatment.

### 32-1981. Definitions

In this article, unless the context otherwise requires:

1. "Chain pharmacy warehouse" means a physical location for prescription-only drugs that acts as a central warehouse and that performs intracompany sales or transfers of the prescription-only drugs to a group of pharmacies that are under common ownership or control. A chain pharmacy warehouse is not limited to the distribution of prescription-only drugs under this article.

2. "Company under common ownership" has the same meaning as affiliated group as defined in 26 United States Code section 1504.

3. "Intracompany transaction" means any sale, transfer or trade between a division, subsidiary, parent or affiliated or related company under the common ownership of a person.

4. "Normal distribution channel" means the chain of custody for a prescription-only drug that begins with the delivery of the drug by a manufacturer to a wholesale distributor who then delivers the drug to a pharmacy or a practitioner for final receipt by a patient. Normal distribution channel includes the receipt of a prescription-only drug by a common carrier or other delivery service that delivers the drug at the direction of a manufacturer, full service wholesale permittee or pharmacy and that does not purchase, sell, trade or take title to any prescription-only drug.

5. "Wholesale distribution" means distribution of a drug to a person other than a consumer or patient. Wholesale distribution does not include:

- (a) Any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity.
- (b) Selling, purchasing, distributing, transferring or trading a drug or offering to sell, purchase, distribute, transfer or trade a drug for emergency medical reasons. For the purposes of this subdivision, "emergency medical reasons" includes transferring a prescription drug by a community pharmacy or hospital pharmacy to another community pharmacy or hospital pharmacy to alleviate a temporary shortage.
- (c) Drug returns if conducted by a hospital, health care entity, retail pharmacy or charitable institution in accordance with 21 Code of Federal Regulations section 203.23.
- (d) The sale of prescription drugs by a pharmacy, not to exceed five percent of the pharmacy's gross sales, to practitioners for office use.
- (e) Dispensing by a retail pharmacy of prescription drugs to a patient or patient's agent pursuant to the lawful order of a practitioner.
- (f) Distributing a drug sample by a manufacturer's representative.
- (g) Selling, purchasing or trading blood or blood components intended for transfusion.

[32-1982. Full-service wholesale permittees; bonds; designated representatives; fingerprinting requirements](#)

A. A full-service wholesale permittee that engages in the wholesale distribution of prescription-only drugs into, within or from this state must maintain a bond as required by federal law and have a designated representative. If the full-service wholesale permittee changes its designated representative, the new designated representative must possess and submit a valid fingerprint clearance card before the change in representation is made.

B. The designated representative of a full-service wholesale permittee must:

1. Be at least twenty-one years of age.
2. Be employed by the full-service wholesale permittee in a managerial level position.
3. Be actively involved in the daily operation of the wholesale distribution of prescription-only drugs.
4. Be physically present at the full-service wholesale permittee facility during regular business hours unless the absence of the designated representative is authorized.
5. Serve as a designated representative for only one full-service wholesale permittee.
6. Not have any criminal convictions under any federal, state or local laws relating to wholesale or retail prescription-only drug distribution or distribution of controlled substances.
7. Possess a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.

C. For the purposes of this article, a full-service wholesale permittee does not include a hospital, chain pharmacy warehouse or third-party logistics provider.

[32-1983. Restrictions on transactions](#)

A. A full service wholesale permittee may accept prescription-only drug returns or exchanges from a pharmacy or chain pharmacy warehouse pursuant to the terms of an agreement between the full service wholesale permittee and the pharmacy or chain pharmacy warehouse. The full service wholesale permittee shall not accept as returns or exchanges from the pharmacy or chain pharmacy warehouse:

1. Adulterated or counterfeited prescription-only drugs.

2. An amount or quantity of a prescription-only drug that exceeds the amount or quantity that the full service wholesale permittee or another full service wholesale permittee under common ownership sold to the pharmacy or chain pharmacy warehouse.

B. A full service wholesale permittee may furnish prescription-only drugs only to a pharmacy or medical practitioner. The full service wholesale permittee must first verify that person holds a valid license or permit.

C. The full service wholesale permittee must deliver prescription-only drugs only to the premises listed on the license or permit. A full service wholesale permittee may furnish prescription-only drugs to an authorized person or agent of that premises if:

1. The full service wholesale permittee properly establishes the person's identity and authority.

2. Delivery to an authorized person or agent is used only to meet the immediate needs of a particular patient of the authorized person.

D. A full service wholesale permittee may furnish prescription-only drugs to a pharmacy receiving area if a pharmacist or authorized receiving personnel sign, at the time of delivery, a receipt showing the type and quantity of the prescription-only drug received. Any discrepancy between receipt and the type and quantity of the prescription-only drug actually received must be reported to the full service wholesale permittee by the next business day after the delivery to the pharmacy receiving area.

E. A full service wholesale permittee shall not accept payment for or allow the use of a person or entity's credit to establish an account for the purchase of prescription-only drugs from any person other than the owner of record, the chief executive officer or the chief financial officer listed on the license or permit of a person or entity legally authorized to receive prescription-only drugs. Any account established for the purchase of prescription-only drugs must bear the name of the licensee or permittee.

### 32-1985. Injunctive relief

The board, through the appropriate county attorney or the office of the attorney general, may apply for injunctive relief in any court of competent jurisdiction or enjoin any person from committing any act in violation of this article. Injunctive proceedings are in addition to all penalties and other remedies prescribed in this chapter.

### 32-1991. Enforcement of chapter

The state board of pharmacy, the division of narcotics enforcement and criminal intelligence within the department of public safety, all officers exercising police powers, and county attorneys shall enforce the provisions of this chapter, unless such enforcement is otherwise specifically delegated, and they shall cooperate with all officers and agencies charged with enforcement of laws of other states and the United States pertaining to the subject matter of this chapter.

### 32-1992. Provisions of marijuana, prescription-only drugs, narcotics, dangerous drugs or controlled substances laws not invalidated by this chapter; medicated feed not included

A. Nothing in this chapter shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to marijuana, prescription-only drugs, narcotics, dangerous drugs or controlled substances as defined in the applicable federal and state laws relating to these drugs or substances.

B. Nothing in this chapter shall be interpreted to include medicated feed for veterinary use.

32-1993. Authorization to seize certain drugs, counterfeit drugs and equipment; disposition of seized equipment

A. The following may be seized by the division of narcotics enforcement and criminal intelligence within the department of public safety and its designated agents and all officers exercising police powers when they have reasonable grounds to believe it is:

1. A drug that is a counterfeit.
2. A container of such counterfeit drug.
3. Equipment used in manufacturing, compounding, or processing a drug with respect to which drug a prohibited act within the meaning of section 32-1965 has occurred.
4. Any punch, die, plate, stone, labeling, container or other thing used or designed for use in making a counterfeit drug.
5. Any conveyance being used to transport, carry or hold a counterfeit drug in violation of section 32-1965, paragraph 4.

B. When any article, equipment, conveyance, or other thing is seized pursuant to this chapter the peace officer shall, within five days thereafter, cause to be filed in the proper court in whose jurisdiction the merchandise is seized or detained a complaint for condemnation of such merchandise as provided in this chapter.

C. Any person, firm, or corporation having an interest in the alleged article, equipment, or other thing proceeded against, or any person, firm or corporation against whom a civil or criminal liability would exist if the merchandise is in violation of section 32-1965, paragraph 4 may, within twenty days following the seizure, serve and file an answer or responsive pleading to the complaint which shall allege the interest or liability of the party filing it.

D. Any article, equipment, conveyance or other thing condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds thereof, if sold, less the legal costs and other charges shall be deposited, pursuant to sections 35-146 and 35-147, with the state treasurer.

32-1994. Authorization to embargo adulterated or misbranded drugs or devices; condemnation; destruction; costs

A. When the board or its authorized agent finds or has probable cause to believe that any drug, device, poison, or hazardous substance is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, he shall affix to such article an appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons it is unlawful to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the board or the court.

B. When an article detained or embargoed under subsection A of this section has been found by the board to be adulterated or misbranded, it shall petition the court in whose jurisdiction the article is detained or embargoed for condemnation of such article, or if feasible, the board may permit the article to be brought into compliance with this chapter.

C. If the court finds that a detained or embargoed article is adulterated or misbranded, and it is not feasible to bring it into compliance with this chapter, such article shall be destroyed at the expense of the claimant who shall also pay all court costs, fees, storage and other proper expenses.

#### 32-1995. Injunctions; restraining orders

In addition to other remedies provided, the board may apply to the proper court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary restraining order, or a temporary or permanent injunction restraining any person from violating any provision of this chapter.

#### 2-1996. Violations; classification; civil penalty

A. Except as provided in this section, a person who violates this chapter:

1. Without the intent to defraud or mislead is guilty of a class 2 misdemeanor.
2. With the intent to defraud or mislead is guilty of a class 5 felony.

B. A person who violates section 32-1965, paragraph 4 or article 3.1 of this chapter is guilty of a class 2 felony.

C. Any person who secures a license or permit for that person or for another person by knowingly making a false representation, who fraudulently claims to be licensed as a pharmacist or pharmacy intern within the meaning of this chapter or who knowingly engages in the practice of pharmacy without a license is guilty of a class 2 misdemeanor.

D. A person who secures a license as a pharmacy technician or a pharmacy technician trainee for that person or for another person by knowingly making a false representation, who fraudulently claims to be licensed as a pharmacy technician or a pharmacy technician trainee or who knowingly performs the duties of a pharmacy technician or a pharmacy technician trainee without a license is guilty of a class 2 misdemeanor.

E. A person who dispenses a human growth hormone in violation of this chapter is guilty of a class 6 felony.

F. A court convicting any person for a violation of this chapter shall, immediately after the date of conviction, send a complete copy of the record of the conviction, including the person's name and offense committed, to the executive director of the board.

G. A person who violates section 32-1978 shall be issued a civil penalty only as set forth in that section.

#### 32-1997. Misbranding; promotion of off-label use; definitions

A. Notwithstanding any other law, a pharmaceutical manufacturer or its representative may engage in truthful promotion of an off-label use of a drug, biological product or device.

B. This section does not require a health care insurer, other third-party payor or other health plan sponsor to provide coverage for the cost of any off-label use of a drug, biological product or device as a treatment.

C. Notwithstanding any other law, an official, employee or agent of this state may not enforce or apply section 32-1967 against or otherwise prosecute a pharmaceutical manufacturer or its representative for engaging in truthful promotion of an off-label use of a drug, biological product or device.

D. Notwithstanding any other law, the Arizona state board of pharmacy, the Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery and the department of health services may not revoke, fail to renew or take any other action against the license of a pharmaceutical manufacturer or its representative, a health care institution or a physician solely for engaging in truthful promotion of an off-label use of a drug, biological product or device.

E. For the purposes of this section:

1. "Biological product" has the same meaning prescribed in 42 United States Code section 262.
2. "Misbranding" has the same meaning described in section 32-1967 or 21 United States Code section 352.
3. "Off-label use" means the use of a United States food and drug administration-approved drug, biological product or device in a manner other than the use approved by the United States food and drug administration.
4. "Truthful promotion" means the sharing of information that is not misleading, not contrary to fact, and consistent with generally accepted scientific principles, between pharmaceutical manufacturers and licensed professionals who can prescribe medication within the provider's scope of practice.

#### 36-2601. Definitions

In this article, unless the context otherwise requires:

1. "Board" means the Arizona state board of pharmacy or its designee.
2. "Dispenser" means a medical practitioner or pharmacy that is authorized to dispense controlled substances.
3. "Licensed health care provider" means a person who is licensed pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 19.1, 25, 29 or 33.
4. "Medical practitioner" means any person who is licensed and authorized by law to use and prescribe drugs and devices to treat sick and injured human beings or to diagnose or prevent sickness in human beings in this state or any state, territory or district of the United States.
5. "Patient utilization report" means all of the following information about a patient that is compiled by the program and disclosed pursuant to section 36-2606:
  - (a) Controlled substances prescription monitoring program data.
  - (b) Clinical alerts and other required alerts or indicators.
6. "Person" means an individual, partnership, corporation or association and the person's duly authorized agents.
7. "Program" means the controlled substances prescription monitoring program.

36-2602. Controlled substances prescription monitoring program; contracts; retention and maintenance of records

A. The board shall adopt rules to establish a controlled substances prescription monitoring program. The program shall:

1. Be operated, monitored and maintained by the board.
2. Be staffed by the board.
3. Include a computerized central database tracking system to track the prescribing, dispensing and consumption of schedule II, III, IV and V controlled substances that are dispensed by a medical practitioner or by a pharmacy that holds a valid license or permit issued pursuant to title 32. The database shall include data from the department of health services that identifies residents of this state who possess a registry identification card issued pursuant to chapter 28.1 of this title. The tracking system shall not interfere with the legal use of a controlled substance for managing severe or intractable pain.
4. Assist law enforcement to identify illegal activity related to prescribing, dispensing and consuming schedule II, III, IV and V controlled substances.
5. Provide information to patients, medical practitioners and pharmacists to help avoid the inappropriate use of schedule II, III, IV and V controlled substances.
6. Be designed to minimize inconvenience to patients, prescribing medical practitioners and pharmacies while effectuating the collection and storage of information.

B. The board may enter into private or public contracts, including intergovernmental agreements pursuant to title 11, chapter 7, article 3, to ensure the effective operation of the program. Each contractor must comply with the confidentiality requirements prescribed in this article and is subject to the criminal penalties prescribed in section 36-2610.

C. The board shall maintain the following records for the following periods of time:

1. A record of dispensing a controlled substance for seven years after the date the controlled substance was dispensed.
2. Affidavits for the purpose of an open investigation by law enforcement for two years.
3. Court orders requesting medical record information in the program for two years.
4. A patient's request of the patient's own prescription history for two years.
5. A prescriber report for two years.

36-2603. Computerized central database tracking system task force; consultation on electronic prescribing; membership

A. The board shall appoint a task force to help it administer the computerized central database tracking system, to identify educational, outreach and support services to advance medical practitioners' adoption of electronic prescribing of schedule II controlled substances and pharmacy implementation of section 36-2525 and to consult with regarding recommendations for exceptions to the electronic prescribing requirements prescribed in section 36-2525. The chairperson of the board shall chair the task force. The task force shall include the following members:

1. Pharmacists, medical practitioners and other licensed health care providers.
2. Representatives of professional societies and associations for pharmacists, medical practitioners and other licensed health care providers.
3. Representatives of professional licensing boards.
4. Representatives of the Arizona health care cost containment system administration.
5. Representatives of state and federal agencies that have an interest in controlling controlled substances.
6. Criminal prosecutors.
7. Representatives of a health information organization in this state.

B. The task force shall meet to establish the procedures and conditions relating to the release of prescription information pursuant to section 36-2604. The task force shall meet at least once each year and at the call of the chairperson.

C. Task force members serve at the pleasure of the board and are not eligible to receive compensation or reimbursement of expenses.

#### 36-2604. Use and release of confidential information; definitions

A. Except as otherwise provided in this section, prescription information submitted to the board pursuant to this article is confidential and is not subject to public inspection. The board shall establish procedures to ensure the privacy and confidentiality of patients and that patient information that is collected, recorded and transmitted pursuant to this article is not disclosed except as prescribed in this section.

B. The board or its designee shall review the prescription information collected pursuant to this article. If the board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation. The board may delegate the duties prescribed in this subsection to the executive director pursuant to section 32-1904.

C. The board may release data collected by the program to the following:

1. A person who is authorized to prescribe or dispense controlled substances, or a delegate who is authorized by the prescriber or dispenser, to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient or to assist with or verify compliance with the requirements of this chapter, the rules adopted pursuant to this chapter and the rules adopted by the department of health services to reduce opioid overdose and death.
2. An individual who requests the individual's own prescription monitoring information pursuant to section 12-2293.
3. A medical practitioner regulatory board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 25 or 29.
4. A local, state or federal law enforcement or criminal justice agency. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint.

5. The Arizona health care cost containment system administration and contractors regarding persons who are receiving services pursuant to chapters 29 and 34 of this title or title XVIII of the Social Security Act. Except as required pursuant to subsection B of this section, the board shall provide this information only if the administration or a contractor states in writing that the information is necessary for an open investigation or complaint or for performing a drug utilization review for controlled substances that supports the prevention of opioid overuse or abuse and the safety and quality of care provided to the member.

6. A health care insurer. Except as required pursuant to subsection B of this section, the board shall provide this information only if the health care insurer states in writing that the information is necessary for an open investigation or complaint or for performing a drug utilization review for controlled substances that supports the prevention of opioid overuse or abuse and the safety and quality of care provided to the insured.

7. A person who is serving a lawful order of a court of competent jurisdiction.

8. A person who is authorized to prescribe or dispense controlled substances and who performs an evaluation on an individual pursuant to section 23-1026.

9. A county medical examiner or alternate medical examiner who is directing an investigation into the circumstances surrounding a death as described in section 11-593 or a delegate who is authorized by the county medical examiner or alternate medical examiner.

10. The department of health services regarding persons who are receiving or prescribing controlled substances in order to implement a public health response to address opioid overuse or abuse, including a review pursuant to section 36-198. Except as required pursuant to subsection B of this section, the board shall provide this information only if the department states in writing that the information is necessary to implement a public health response to help combat opioid overuse or abuse.

D. Data provided by the board pursuant to this section may not be used for any of the following:

1. Credentialing health care professionals.
2. Determining payment.
3. Preemployment screening.
4. Any purpose other than as specified in this section.

E. For a fee determined by the board, the board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

F. Any employee of the administration, a contractor or a health care insurer who is assigned delegate access to the program shall operate under the authority and responsibility of the administration's, contractor's or health care insurer's chief medical officer or other employee who is a licensed health care professional and who is authorized to prescribe or dispense controlled substances. A delegate of the administration, a contractor or a health care insurer shall hold a valid license or certification issued pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 19.1, 25, 29 or 33 as a condition of being assigned and provided delegate access to the program by the board. Each employee of the administration, a contractor or a health care insurer who is a licensed health care professional and who is authorized to prescribe or dispense controlled substances may authorize not more than ten delegates.

G. A person who is authorized to prescribe or dispense controlled substances or the chief medical officer or other licensed health care professional of the administration, a contractor or a health care insurer who is authorized to prescribe or dispense controlled substances shall deactivate a delegate within five business days after an employment status change, the request of the delegate or the inappropriate use of the controlled substances prescription monitoring program's central database tracking system.

H. For the purposes of this section:

1. "Administration" and "contractor" have the same meanings prescribed in section 36-2901.

2. "Delegate" means any of the following:

(a) A licensed health care professional who is employed in the office of or in a hospital with the prescriber or dispenser.

(b) An unlicensed medical records technician, medical assistant or office manager who is employed in the office of or in a hospital with the prescriber or dispenser and who has received training regarding both the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 164, subpart E) and security standards (45 Code of Federal Regulations part 164, subpart C).

(c) A forensic pathologist, medical death investigator or other qualified person who is assigned duties in connection with a death investigation pursuant to section 11-594.

(d) A licensed pharmacy technician trainee, pharmacy technician or pharmacy intern who works in a facility with the dispenser.

(e) Any employee of the administration, a contractor or a health care insurer who is authorized by the administration's, contractor's or health care insurer's chief medical officer or other licensed health care professional who is authorized to prescribe or dispense controlled substances.

3. "Health care insurer" has the same meaning prescribed in section 20-3151.

### 36-2605. Controlled substances prescription monitoring program fund

A. The controlled substances prescription monitoring program fund is established consisting of legislative appropriations, transfers pursuant to section 32-1907 and any grants, gifts or donations received by the board. The board shall administer the fund. Monies in the fund are continuously appropriated and shall be used to operate the controlled substances prescription monitoring program established pursuant to section 36-2602.

B. The board may apply for grants and may accept gifts, grants or donations for the establishment and maintenance of the computerized prescription monitoring program.

### 36-2606. Registration; access; requirements; mandatory use; annual user satisfaction survey; report; definitions

A. A medical practitioner regulatory board shall notify each medical practitioner who receives an initial or renewal license and who intends to apply for registration or has an active registration under the controlled substances act (21 United States Code sections 801 through 904) of the medical practitioner's responsibility to register with the Arizona state board of pharmacy and be granted access to the controlled substances prescription monitoring program's central database tracking system. The Arizona state board of pharmacy shall provide access to the central database tracking system to each medical practitioner who has a valid license pursuant to title 32 and who possesses an Arizona registration under the controlled substances act (21 United States Code sections 801 through 904). The Arizona state board of pharmacy

shall notify each pharmacist of the pharmacist's responsibility to register with the Arizona state board of pharmacy and be granted access to the controlled substances prescription monitoring program's central database tracking system. The Arizona state board of pharmacy shall provide access to the central database tracking system to each pharmacist who has a valid license pursuant to title 32, chapter 18 and who is employed by either:

1. A facility that has a valid United States drug enforcement administration registration number.
2. The administration, a contractor or a health care insurer and who has a national provider identifier number.

B. The registration is:

1. Valid in conjunction with a valid United States drug enforcement administration registration number and a valid license issued by a medical practitioner regulatory board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 25 or 29.

2. Valid in conjunction with a valid license issued by the Arizona state board of pharmacy for a pharmacist who is employed by either:

- (a) A facility that has a valid United States drug enforcement administration registration number.

- (b) The administration, a contractor or a health care insurer and who has a national provider identifier number.

3. Not transferable or assignable.

C. An applicant for registration pursuant to this section must apply as prescribed by the board.

D. Pursuant to a fee prescribed by the board by rule, the board may issue a replacement registration to a registrant who requests a replacement because the original was damaged or destroyed, because of a change of name or for any other good cause as prescribed by the board.

E. A person who is authorized to access the controlled substances prescription monitoring program's central database tracking system may do so using only that person's assigned identifier and may not use the assigned identifier of another person.

F. Beginning the later of October 1, 2017 or sixty days after the statewide health information exchange has integrated the controlled substances prescription monitoring program data into the exchange, a medical practitioner, before prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule II, III or IV for a patient, shall obtain a patient utilization report regarding the patient for the preceding twelve months from the controlled substances prescription monitoring program's central database tracking system at the beginning of each new course of treatment and at least quarterly while that prescription remains a part of the treatment. Each medical practitioner regulatory board shall notify the medical practitioners licensed by that board of the applicable date. A medical practitioner may be granted a one-year waiver from the requirement in this subsection due to technological limitations that are not reasonably within the control of the practitioner or other exceptional circumstances demonstrated by the practitioner, pursuant to a process established by rule by the Arizona state board of pharmacy.

G. Before a pharmacist dispenses or before a pharmacy technician or pharmacy intern of a remote dispensing site pharmacy dispenses a schedule II controlled substance, a dispenser shall obtain a patient utilization report regarding the patient for the preceding twelve months from the controlled substances

prescription monitoring program's central database tracking system at the beginning of each new course of treatment.

H. The medical practitioner or dispenser is not required to obtain a patient utilization report from the central database tracking system pursuant to subsection F of this section if any of the following applies:

1. The patient is receiving hospice care or palliative care for a serious or chronic illness.
2. The patient is receiving care for cancer, a cancer-related illness or condition or dialysis treatment.
3. A medical practitioner will administer the controlled substance.
4. The patient is receiving the controlled substance during the course of inpatient or residential treatment in a hospital, nursing care facility, assisted living facility, correctional facility or mental health facility.
5. The medical practitioner is prescribing the controlled substance to the patient for not more than a five-day period for an invasive medical or dental procedure or a medical or dental procedure that results in acute pain to the patient.
6. The medical practitioner is prescribing the controlled substance to the patient for not more than a five-day period for a patient who has suffered an acute injury or a medical or dental disease process that is diagnosed in an emergency department setting and that results in acute pain to the patient. An acute injury or medical disease process does not include back pain.

I. If a medical practitioner or dispenser uses electronic medical records that integrate data from the controlled substances prescription monitoring program, a review of the electronic medical records with the integrated data shall be deemed compliant with the review of the program's central database tracking system as required in subsection F of this section.

J. The board shall promote and enter into data sharing agreements to integrate and display patient utilization reports within electronic medical records.

K. By complying with this section, a medical practitioner or dispenser who acts in good faith, or the medical practitioner's or dispenser's employer, is not subject to liability or disciplinary action arising solely from either:

1. Requesting or receiving, or failing to request or receive, prescription monitoring data from the program's central database tracking system.
2. Acting or failing to act on the basis of the prescription monitoring data provided by the program's central database tracking system.

L. Notwithstanding any provision of this section to the contrary, medical practitioners or dispensers and their delegates are not in violation of this section during any time period in which the controlled substances prescription monitoring program's central database tracking system is suspended or is not operational or available in a timely manner. If the program's central database tracking system is not accessible, the medical practitioner or dispenser or the medical practitioner's or dispenser's delegate shall document the date and time the practitioner, dispenser or delegate attempted to use the central database tracking system pursuant to a process established by board rule.

M. The board shall conduct an annual voluntary survey of program users to assess user satisfaction with the program's central database tracking system. The survey may be conducted electronically. On or before December 1 of each year, the board shall provide a report of the survey results to the president of the

senate, the speaker of the house of representatives and the governor and shall provide a copy of this report to the secretary of state.

N. This section does not prohibit a medical practitioner regulatory board or the Arizona state board of pharmacy from obtaining and using information from the program's central database tracking system.

O. For the purposes of this section:

1. "Administration" has the same meaning prescribed in section 36-2901.
2. "Contractor" has the same meaning prescribed in section 36-2901.
3. "Dispenser" means a pharmacist who is licensed pursuant to title 32, chapter 18.
4. "Emergency department" means the unit within a hospital that is designed to provide emergency services.
5. "Health care insurer" has the same meaning prescribed in section 20-3151.

#### 36-2607. Disciplinary action

A. The registrant's professional licensing board may revoke or suspend a registrant's registration or may place the registrant on probation for any of the following:

1. The registrant's professional licensing board determines that the registration was obtained by fraudulent means.
2. The registrant's professional licensing board takes action to revoke, suspend or place on probation the registrant's license, permit or registration to prescribe or dispense drugs.
3. The registration was issued through error.
4. The registrant knowingly files with the board any application, renewal or other document that contains false or misleading information or the registrant gives false or misleading testimony to the board.
5. The registrant knowingly makes a false report or record required by this article.
6. A registrant that dispenses controlled substances does not resolve discrepancies submitted to the program's central database tracking system within thirty business days after being notified of the error by the board.
7. A registrant that dispenses controlled substances does not resolve a failed attempt or missing transmission to the program's central database tracking system within thirty business days after the occurrence.

B. The board may deny a registration to an applicant for the grounds prescribed in subsection A of this section.

C. In addition to any other law, a licensed or permitted medical practitioner, pharmacist or pharmacy that fails to comply with the requirements of this article is subject to disciplinary action by the medical practitioner's, pharmacist's or pharmacy's professional licensing board. The board of pharmacy shall report to the appropriate professional licensing board the failure of a licensed or permitted medical practitioner, pharmacist or pharmacy to comply with the requirements of this article.

#### 36-2608. Reporting requirements; waiver; exceptions

A. If a medical practitioner dispenses a controlled substance listed in section 36-2513, 36-2514, 36-2515 or 36-2516 or the rules adopted pursuant to chapter 27, article 2 of this title, or if a prescription for a controlled substance listed in any of those sections or naloxone hydrochloride or any other opioid antagonist that is approved by the United States food and drug administration is dispensed by a pharmacy in this state, a health care facility in this state for outpatient use or a board-permitted nonresident pharmacy for delivery to a person residing in this state, the medical practitioner, health care facility or pharmacy must report the following information as applicable and as prescribed by the board by rule:

1. The name, address, telephone number, prescription number and United States drug enforcement administration controlled substance registration number of the dispenser.
2. The name, address and date of birth of the person for whom the prescription is written.
3. The name, address, telephone number and United States drug enforcement administration controlled substance registration number of the prescribing medical practitioner.
4. The name, strength, quantity, dosage and national drug code number of the schedule II, III, IV or V controlled substance or naloxone hydrochloride or other opioid antagonist dispensed.
5. The date the prescription was dispensed.
6. The number of refills, if any, authorized by the medical practitioner.

B. Except as provided in subsection D of this section, a dispenser must use the latest version of the standard implementation guide for prescription monitoring programs published by the American society for automation in pharmacy to report the required information.

C. The board shall allow the reporter to transmit the required information by electronic data transfer if feasible or, if not feasible, on reporting forms as prescribed by the board. The reporter shall submit the required information once each day.

D. A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the established format may request a waiver from electronic reporting by submitting a written request to the board. The board shall grant the request if the dispenser agrees in writing to report the data by submitting a completed universal claim form as prescribed by the board by rule.

E. The board by rule may prescribe the prescription form to be used in prescribing a schedule II, III, IV or V controlled substance if the board determines that this would facilitate the reporting requirements of this section.

F. The reporting requirements of this section do not apply to the following:

1. A controlled substance that is administered directly to a patient.
2. A controlled substance that is dispensed by a medical practitioner at a health care facility licensed by this state if the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of seventy-two hours with not more than two seventy-two-hour cycles within any fifteen-day period.
3. A controlled substance sample.
4. The wholesale distribution of a schedule II, III, IV or V controlled substance. For the purposes of this paragraph, "wholesale distribution" has the same meaning prescribed in section 32-1981.

5. A facility that is registered by the United States drug enforcement administration as a narcotic treatment program and that is subject to the recordkeeping provisions of 21 Code of Federal Regulations section 1304.24.

G. A pharmacist who dispenses naloxone hydrochloride or another opioid antagonist to an individual pursuant to section 32-1979 shall report the information listed in subsection A, paragraphs 1, 2, 3 and 5 of this section and the name, strength, quantity, dosage and national drug code number as prescribed by the board by rule pursuant to subsection A of this section.

H. Naloxone hydrochloride or any other opioid antagonist shall not be viewable in the patient utilization report.

**36-2609. Use of information; civil immunity**

A. An individual or entity that complies with the reporting requirements of section 36-2608 is not subject to civil liability or other civil relief for reporting the information to the board.

B. Unless a court of competent jurisdiction makes a finding of malice or criminal intent, the board, any other state agency or any person or entity in proper possession of information pursuant to this article is not subject to civil liability or other legal or equitable relief for any of the following acts or omissions:

1. Furnishing information pursuant to this article.
2. Receiving, using or relying on, or not using or relying on, information received pursuant to this article.
3. Information that was not furnished to the board.
4. Information that was factually incorrect or that was released by the board to the wrong person or entity.

**36-2610. Prohibited acts; violation; classification**

A. A person who is subject to this article and who fails to report required information pursuant to section 36-2608 is guilty of a class 2 misdemeanor.

B. A person who is subject to this article and who knowingly fails to report required information to the board in violation of section 36-2608 is guilty of a class 1 misdemeanor.

C. A person who is subject to this article and who knowingly reports information to the board that the person knows to be false or fraudulent is guilty of a class 6 felony.

D. A person who is granted access to the information maintained by the board as required by this article and who knowingly discloses the information in a manner inconsistent with a legitimate professional or regulatory purpose, a legitimate law enforcement purpose, the terms of a court order or as otherwise expressly authorized by this article is guilty of a class 6 felony.



## Arizona State Board of Pharmacy

---

Physical Address: 1616 W. Adams, Suite 120, Phoenix, AZ 85007  
Mailing Address: P.O. Box 18520, Phoenix, AZ 85005  
p) 602-771-2727 f) 602-771-2749 www.azpharmacy.gov

April 28, 2022

Ms. Nicole Sornsin, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 4. Professions and Occupations  
Chapter 23. Board of Pharmacy**

Dear Ms. Sornsin:

Following the study session on April 26, 2022, the Board amended the attached Notice of Final Rulemaking to be consistent with comments made by Council members at the session. The changes, which occur in subsection R4-23-1104(B), are described in item 10 of the Preamble. A copy of the amended Notice of Final Rulemaking was provided to Senator Barto for her review and comment.

Sincerely,

A handwritten signature in black ink that reads "Kamlesh Gandhi". The signature is written in a cursive style.

Kamlesh Gandhi  
Executive Director

NOTICE OF FINAL RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- | <b><u>1. Articles, Parts, and Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R4-23-411   | Amend                           |
| R4-23-1104  | Amend                           |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 32-1904(A)(1) and (B)  
Implementing statute: A.R.S. §§ 32-1923.01, 32-1925, 32-1961, and 32-1974
- 3. The effective date for the rules:**  
As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.
- 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. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
Notice of Rulemaking Docket Opening: 27 A.A.R. 1232, August 13, 2021  
Notice of Proposed Rulemaking: 27 A.A.R. 1219, August 13, 2021  
Notice of Supplemental Proposed Rulemaking: 28 A.A.R. 339, February 4, 2022
- 5. The agency's contact person who can answer questions about the rulemaking:**  
Name: Kamlesh Gandhi  
Address: 1616 W Adams Street, Suite 120  
Phoenix, AZ 85007  
Telephone: (602) 771-2740

Fax: (602) 771-2749

E-mail: kgandhi@azpharmacy.gov

Website: www.azpharmacy.gov

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

The Board is amending its rules to allow pharmacy technicians to perform additional duties when the duty is delegated by the pharmacist on duty. This expansion of duties performed by a pharmacy technician is consistent with the evolving national landscape for pharmacy technicians. The Board is also making minor changes needed to align the rules with statute or to incorporate changes implemented during the COVID19 emergency.

An exemption from Executive Order 2021-02 was provided by Trista Guzman Glover in an e-mail dated May 18, 2021. Ms Guzman Glover authorized the Board to submit the rulemaking to the Council in an e-mail dated October 27, 2021. As a result of opinions expressed by the Council at its December 7, 2021, meeting, the Board decided to amend the proposed rulemaking. An exemption from Executive Order 2021-02 for this supplemental proposed rulemaking was provided by Ms Guzman Glover in an email dated January 6, 2022. Approval to submit this rule package to the Council was provided by Brian Norman, of the Governor's Office, in an e-mail dated March 21, 2022.

**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 any rule in 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:**

Expanding the duties performed by pharmacy technicians will enable pharmacy permittees to serve the public more efficiently and effectively.

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

At its December 7, 2021, meeting, members of the Council expressed reluctance to approve R4-23-1104(B)(5), as published in the Notice of Proposed Rulemaking, because the proposed rule authorized a pharmacy technician who was trained and working under the supervision of the pharmacist on duty to administer an immunization or vaccine. The provision was removed in a Notice of Supplemental Proposed Rulemaking and a provision added at R4-23-1104(B)(5)(a) excluding a pharmacy technician from administering an immunization or vaccine unless specifically authorized by statute or rule. No changes have been made between the Notice of Supplemental Proposed Rulemaking and this Notice of Final Rulemaking.

At its study session on April 26, 2022, members of the Council requested that language in R4-23-1104(B)(5) be changed in a non-substantive manner. This was done. The subsection was also reformatted to emphasize non-delegable tasks. The reformatting involved adding subsections (B)(6) and (B)(7). None of these changes is substantial under the terms specified in A.R.S. § 41-1025(B).

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

No comments were received from members of the public regarding the Notice of Supplemental Proposed Rulemaking.

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

None

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

Under A.R.S. § 41-1037(A)(2), the license issued to a pharmacy technician under A.R.S. § 32-1923.01 is not a general permit. A.R.S. § 32-1923.01 requires the Board to assess individual qualifications before issuing the license.

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

No rule in this rulemaking is more stringent than federal law. There are numerous federal laws with which individuals dealing with drugs must comply but none is directly applicable to this rulemaking.

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

No analysis was submitted.

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

None

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

No rule in the rulemaking was previously made, amended, or repealed as an emergency rule.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 4. PROFESSIONAL PRACTICES**

Section

R4-23-411. Pharmacist-administered or Intern-administered Immunizations

**ARTICLE 11. PHARMACY TECHNICIANS**

Section

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

## ARTICLE 4. PROFESSIONAL PRACTICES

### **R4-23-411. Pharmacist-administered or Intern-administered Immunizations**

- A.** Authorization to administer immunizations, vaccines, and emergency medications, as defined at A.R.S. § 32-1974(N), to an eligible adult patient or eligible minor patient. As used in this Section, “eligible adult patient” means an eligible patient 13 years of age or older and “eligible minor patient” means an eligible patient at least three years of age but less than 13 years of age. A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist; may administer, without a prescription, immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section;
  2. The Board authorizes both the pharmacist and intern as specified in subsection (D);
  3. For an eligible adult patient, the immunization or vaccine is:
    - a. Recommended for adults by the United States Centers for Disease Control and Prevention; or
    - b. Recommended by the United States Centers for Disease Control and Prevention’s Health Information for International Travel;
  4. For an eligible adult patient, the immunization or vaccine is not on the Arizona Department of Health Services list specified in A.A.C. R9-6-1301 as required under A.R.S. § 32-1974(I);
  5. For an eligible minor patient, the immunization or vaccine is for influenza or a booster dose as described under A.R.S. § 32-1974(B)(2); and
  6. For an eligible minor patient, any immunizations or vaccines other than influenza or a booster dose as described under A.R.S. § 32-1974(B)(2) are administered in response to a public health emergency declared by the Governor under A.R.S. § 36-787.
- B.** A pharmacist or an intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, with a prescription, any immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:
1. Both the pharmacist and intern meet the qualifications and standards specified by A.R.S. § 32-1974 and this Section; and
  2. The Board authorizes both the pharmacist and intern as specified in subsection (D).
- C.** A pharmacist or intern who is authorized to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall:
1. Not delegate the authority to any other pharmacist, intern, or employee not specifically authorized by rule; and

2. Maintain their current certificate for inspection by the Board or its designee or review by the public.
- D.** Qualifications to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient. After receipt of a completed application form, the Board shall authorize the administration of immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient by a pharmacist or intern who meets the following qualifications:
1. Has a current license to practice pharmacy in this state,
  2. Successfully completes a training program specified in subsection (E), and
  3. Has a current certificate in basic cardiopulmonary resuscitation.
- E.** Immunizations training program requirements. A training program for pharmacists or interns to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient shall include the following courses of study:
1. Basic immunology and the human immune response;
  2. Mechanics of immunity, adverse effects, dose, and administration schedule of available vaccines;
  3. Response to an emergency situation as a result of the administration of an immunization, vaccine, or medication including administering an emergency medication to counteract the adverse effects of the immunization, vaccine, or medication given;
  4. Administration of intramuscular injections;
  5. Other immunization administration methods; and
  6. Recordkeeping and reporting requirements specified in subsection (F).
- F.** Recordkeeping and reporting requirements.
1. A pharmacist or intern authorized under this Section to administer immunizations, vaccines, and emergency medications to an eligible patient shall provide to the pharmacy the following information and documentation regarding each immunization, vaccine, or emergency medication administered:
    - a. The name, address, and date of birth of the patient;
    - b. The date of administration and site of injection;
    - c. The name, dose, manufacturer's lot number, and expiration date of the vaccine, immunization, or emergency medication;
    - d. The name and address of the patient's identified primary-care provider or physician;
    - e. The name of the pharmacist or intern administering the immunization, vaccine, or emergency medication;

- f. A record of the pharmacist's or intern's consultation with the patient determining that the patient is an eligible patient as defined in R4-23-110;
  - g. Consultation or other professional information provided to the patient by the pharmacist or intern;
  - h. The name and date of the immunization or vaccine information sheet provided to the patient; and
  - i. For an immunization or vaccine given to an eligible minor patient, a consent form signed by the minor's parent or guardian.
2. As required under A.R.S. § 32-1974(F)(1), the pharmacist or intern shall provide a written or electronic report to the patient's primary-care provider or physician containing the documentation required in subsection (F)(1)(a) through (d). The pharmacy shall document the time and date the report is sent and make the record of compliance with this subsection available in the pharmacy or on request, within 72 hours, for inspection by the Board or its designee.
  3. A pharmacy's pharmacist-in-charge or permittee shall maintain the records required in subsection (F)(1) in the pharmacy or database for a minimum of seven years from the administration date.
- G.** Confidentiality of records. A pharmacist, intern, pharmacy permittee, or pharmacist-in-charge shall comply with applicable state and federal privacy statutes and rules when releasing patient health information.
- H.** Pharmacist-administered or intern-administered adult immunizations that require a prescription order. A pharmacist or intern authorized by the Board to administer adult immunizations or vaccines shall not administer any immunization or vaccine listed in A.A.C. R9-6-1301 without a prescription order. In addition to filing a prescription order as required in A.R.S. § 32-1964, a pharmacist or pharmacy intern who administers an immunization or vaccine listed in A.A.C. R9-6-1301 shall comply with the recordkeeping requirements of subsection (F)(1).

## **ARTICLE 11. PHARMACY TECHNICIANS**

### **R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees**

- A.** Permissible tasks of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under R4-23-1103 may assist ~~a graduate intern, pharmacy~~ an intern, or pharmacist with the following when applicable to the pharmacy practice site:
1. Record on the original prescription order the serial number of the prescription medication and date dispensed;

2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
  3. Record information in the refill record or patient profile;
  4. Enter information for a new or refill prescription medication as required under A.R.S. § 32-1964;
  5. Type and affix a label for the prescription medication. A pharmacist or ~~graduate or pharmacy~~ intern working under the supervision of a pharmacist shall verify the accuracy of the label as described under R4-23-402(A)(11);
  6. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
  7. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
  8. Prepackage drugs in accordance with R4-23-402(A); and
  9. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.
- B.** Permissible tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:
1. Perform the tasks listed in subsection (A);
  2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist, ~~graduate intern, or pharmacy~~ intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing;
  3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R4-23-1104.01(D); ~~and~~
  4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or ~~graduate or pharmacy~~ intern shall verify the accuracy of the label as described under R4-23-402(A)(12);

5. Perform a task not related to professional judgment if the task is delegated to the pharmacy technician by the pharmacist on duty after the pharmacist on duty ensures the pharmacy technician is trained to do the task and evidence of the training exists in the pharmacy file.
6. A pharmacist on duty shall not delegate or attempt to delegate the following tasks to a pharmacy technician:
  - a. Administering an emergency medication.
  - b. Counseling a patient.
  - c. Conducting a drug utilization review.
  - d. Performing any task that requires the exercise of clinical judgment.
  - e. Issuing a prescription order.
  - f. Receiving a new prescription order for a controlled substance, or
  - g. Transferring by telephone an existing prescription order for a controlled substance; and
7. The pharmacist on duty shall not delegate or attempt to delegate to a pharmacy technician the administering of an immunization or vaccine unless authority for the administration is specifically provided by statute or rule.

- C. A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) shall ensure the task is performed accurately.
- D. Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a professional practice reserved for a pharmacist, ~~graduate intern,~~ or ~~pharmacy~~ intern in accordance with R4-23-402 or R4-23-653 unless otherwise allowed by rule.
- E. A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- F. Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee tasks.
- G. A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures required under subsection (F) include the following:
  1. For all practice sites:
    - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
    - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;

- c. The tasks a pharmacy technician or pharmacy technician trainee may perform as specified under subsections (A) and (B);
  - d. Pharmacist and patient communication;
  - e. Reporting, correcting, and avoiding medication and dispensing errors;
  - f. Security procedures for:
    - i. Confidentiality of patient prescription records, and
    - ii. The pharmacy area;
  - g. Automated medication distribution system;
  - h. Compounding procedures for pharmacy technicians; and
  - i. Brief overview of state and federal pharmacy statutes and rules;
2. For community and limited-service pharmacy practice sites:
- a. Prescription dispensing procedures for:
    - i. Accepting a new written prescription order,
    - ii. Accepting a refill request,
    - iii. Selecting a drug product,
    - iv. Counting and pouring,
    - v. Labeling, and
    - vi. Obtaining refill authorization; and
  - b. Computer data-entry procedures for:
    - i. New and refill prescriptions,
    - ii. Patient's drug allergies,
    - iii. Drug-drug interactions,
    - iv. Drug-food interactions,
    - v. Drug-disease state contraindications,
    - vi. Refill frequency,
    - vii. Patient's disease and medical condition,
    - viii. Patient's age or date of birth and gender, and
    - ix. Patient profile maintenance; and
3. For hospital pharmacy practice sites:
- a. Medication order procurement and data entry,
  - b. Drug preparation and packaging,
  - c. Outpatient and inpatient drug delivery, and
  - d. Inspection of drug storage and preparation areas and patient care areas.





KRISHNA JHAVERI &lt;krishna.jhaveri@azdoa.gov&gt;

---

## Bd. of Pharmacy rulemaking input

2 messages

---

nancybarato@cox.net <nancybarato@cox.net>

Mon, Apr 25, 2022 at 4:49 PM

To: nicole.sornsins@azdoa.gov

Cc: krishna.jhaveri@azdoa.gov, Anakaren.Lemus@azdoa.gov

GRRC Chairwoman Sornsins,

In case I am unable to participate real time at tomorrow's study session, please accept the following:

Sen. Nancy Barto

These are some of the questions and concerns I have RE the proposed Board of Pharmacy Rulemaking after looking at it closely over the weekend.

1. First, rules are meant to be clarifying. It is not clear what the Board of Pharmacy is approving through this Final Rulemaking, especially with the addition of the Supplemental provisions added in February.

From #10 on page 1042 of the rulemaking document, proponents explain that due to the members of the Council's reluctance to approve R-4-23-114(B)(5) authorizing a pharmacy technician to administer an immunization or vaccine unless specifically authorized by statute or rule, the Board of Pharmacy modified its rules through its Supplemental Proposed Rulemaking published in the AR on February 4, 2022, replacing the ability of a pharmacy technician to administer an immunization or vaccine unless specifically authorized by statute or rule, but referencing Permissible tasks of a pharmacy technician, added this sentence to #5 in the first paragraph on page 1049: "Perform **any task** if the task is delegated to the pharmacy technician by the pharmacist on duty after the pharmacist on duty ensures the pharmacy technician is trained to do the task and evidence of the training exists in the pharmacy file. A pharmacist on duty shall not delegate or attempt to delegate the following tasks to a pharmacy technician:

- a. Administering an immunization or vaccine unless authority for the administration is specifically provided by statute or rule,
- b. Administering an emergency medication,
- c. Counseling a patient,
- d. Conducting a drug utilization review,
- e. Performing any task that requires the exercise of clinical judgment,
- f. Issuing a prescription order,
- g. Receiving a new prescription order for a controlled substance, or
- h. Transferring by telephone an existing prescription order for a controlled substance...."

2. What entails, "any task"? Is it the administration of immunizations or vaccines?

3. If so, what statute or rule specifically provides for their administration?
4. What Is the justification for this rulemaking? Regarding studies to support the new rule (#7) i.e.: “The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking,” however, #6 (below) denotes the expansion of duties is justified by two factors: the public health emergency and the national “evolving landscape” incorporating pharmacy technicians’ expanded scope of practice to include vaccine administration.
5. Are either of the above consistent with the Board of Pharmacy’s primary mission: to protect the public or is the goal something other than that i.e. achieving efficiency or codifying executive orders during a public health emergency?

*6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking: The Board is amending its rules to allow pharmacy technicians to perform additional duties when the duty is delegated by the pharmacist on duty. This expansion of duties performed by a pharmacy technician is consistent with the evolving national landscape for pharmacy technicians. The Board is also making minor changes needed to align the rules with statute or to incorporate changes implemented during the COVID19 emergency. An exemption from Executive Order 2021-02 was provided by Trista Guzman Glover in an e-mail dated May 18, 2021. Ms Guzman Glover authorized the Board to submit the rulemaking to the Council in an e-mail dated October 27, 2021. As a result of opinions expressed by the Council at its December 7, 2021, meeting, the Board decided to amend the proposed rulemaking.....*

Until these and other questions are better understood, I don’t see a clear reason why it should move forward any more than I did in December of 2021. Their Sunrise application from last year did not contain this scope of practice expansion either, because they felt it wasn’t needed. Again – not a lot of clarity.

Thank you for your service on the Governor’s Regulatory Review Council and your diligence regarding the important matters that come before you. Feel free to share this with the Council members.

Sincerely,

Sen. Nancy Barto

---

**KRISHNA JHAVERI** <krishna.jhaveri@azdoa.gov>  
 To: SIMON LARSCHIEDT <simon.larscheidt@azdoa.gov>  
 Cc: Anakaren Lemus <anakaren.lemus@azdoa.gov>

Mon, Apr 25, 2022 at 4:59 PM

We received the below email regarding the Pharmacy rulemaking on tomorrow's Study Session agenda.

**Krishna R. Jhaveri, Esq.**  
 Attorney III  
 Governor's Regulatory Review Council | Director's Office  
 Department of Administration | State of Arizona  
 100 North 15th Avenue, Suite 305, Phoenix, AZ 85007  
 602.542.2024 | [krishna.jhaveri@azdoa.gov](mailto:krishna.jhaveri@azdoa.gov) | <https://grrc.az.gov/>  
 How are we doing? Please take a moment to complete a brief [survey](#).



[Quoted text hidden]



## Arizona Retailers Association

Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Az 85007

May 2, 2022

Dear Chair Sornsin and GRRC Members,

On behalf of the Arizona Community Pharmacy Committee, a Committee of the Arizona Retailers Association, we submit this letter of support for the proposed Pharmacist delegation to Technician Rules Title 4, Chapter 23.

This proposed rules package would allow pharmacists to delegate non-judgmental tasks to a technician. This rules package is supported by deviations given by the Board of Pharmacy which revealed an over 99% accuracy rate when technicians performed the same tasks requested in the amended rules package. This accuracy rate supports the claim that there is no threat to patient safety. In fact, the delegation of these functions allows pharmacists more time to do drug utilization reviews and patient consultations thereby enhancing patient safety. Pharmacists, technicians and pharmacy companies support the delegation allowed by this rule. The following states allow a pharmacist to delegate certain administrative tasks to pharmacy technicians: AK, AL, AR, CO, IA, ID, IL, IN, KY, LA, MI, MO, ND, NH, NM, NV, OK, RI TN, UT, VT, WA, WI so while we acknowledge that Arizona does things their own way – this delegation is not new territory.

Furthermore, after the Taskforce set up by the Board of Pharmacy met, the Governor's office and stakeholder groups including the Arizona Medical Association and the Arizona Osteopathic Medical Association were consulted. The Governor and each organization had no opposition to this proposed rules package

The initial rules package provided to GRRC in November of 2021 included language on immunizations. This language concerned a legislator and some GRRC members, so this language has been amended and is now before you without the language on immunizations that caused concern.

The proposed rules package before you currently only allows, not requires, the supervising pharmacist to delegate administrative tasks to a certified and trained technician. The Arizona Board of Pharmacy requires an Arizona Certified Technician to pass a National Certification Exam (PTCB or ExCPT). The Arizona Board of Pharmacy has jurisdiction over the technician and the supervising pharmacist is responsible for overseeing all ancillary pharmacy staff as stated below:

ARS 32-1904. Powers and duties of board; immunity

A. The board shall:

1. Make bylaws and adopt rules that are necessary to protect the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling, or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.

B. The board may:

7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.

During the GRRC study session April 26, 2022 requests were made for some non-substantive changes. Those changes were made and now the rules package is before you for your approval.

The delegation of these administrative tasks will provide the pharmacist with more time to engage with the patient through counseling and to analyze drug utilization. This rules package will allow for enhanced patient safety and regulatory relief from duties that can be administered safely and efficiently by a technician.

We ask you to support this rules package and provide pharmacists some relief from administrative duties, provide technicians new opportunities to be part of the pharmacy team, enhance patient safety and improve workforce flow.

Thank you in advance for your support of this rules package.

Michelle

Michelle Ahlmer  
Arizona Retailers Association  
[michelle@azretailers.com](mailto:michelle@azretailers.com)



One Renaissance Square  
Two North Central Avenue  
Suite 600  
Phoenix, Arizona 85004-2322  
602-229-5200  
Fax 602-229-5690  
www.quarles.com

Attorneys at Law in  
Chicago  
Indianapolis  
Madison  
Milwaukee  
Minneapolis  
Naples  
Phoenix  
Tampa  
Tucson  
Washington, D.C.

Writer's Direct Dial: 602-229-5269  
E-Mail: roger.morris@quarles.com

May 2, 2022

VIA EMAIL

[grrcomments@azdoa.gov](mailto:grrcomments@azdoa.gov)

Governor's Regulatory Review Council  
100 N. 15th Avenue, Suite 305  
Phoenix, AZ 85007

RE: In Support of Rules Proposal: BOARD OF PHARMACY-TITLE 4, Chapter 23,  
Article 4, Professional Practices and Article 11, Pharmacy Technicians (Amend:  
R4-23-311, R4-23-1105

Dear Chairperson Nicole Sornsin and GRRC Council Members:

Quarles & Brady LLP, on behalf of its Arizona pharmacy clients, submits this letter in support of the Rules Proposal identified above. Quarles and Brady LLP has represented licensed pharmacies, pharmacists, and pharmacy technicians for decades before the Arizona Board of Pharmacy and has seen the role of pharmacy technicians evolve and grow over those years. These changes have allowed pharmacists to step away from less technical aspects of the practice of pharmacy and allowed them to work directly with the Arizona public and address their health care needs. The rules proposal continues along this path, allowing licensed pharmacy technicians to increase their support of pharmacists and the pharmacy while increasing and improving access for Arizona patients to quality pharmacy services.

The Board of Pharmacy (the "Board") has the authority to submit this rules proposal and promulgate these rules. Under Ariz. Rev. Stat. § 32-1904(A)(1), the Legislature provided the Board with the power to "adopt rules that are necessary to protect the public and pertain to the...use of pharmacy technicians[.]" These changes do not need a sunrise process, as pharmacists already have the authority to perform all of the tasks listed therein, including the ability to delegate tasks to pharmacy technicians. These proposed rules simply allow the pharmacist to delegate additional components within the pharmacist's scope of practice to technicians.

The proposed rules are set up in a permissive format, allowing technicians to perform any task delegated to them by the pharmacist on duty. It is important to note those last few words – by the pharmacist on duty – as the proposed rules only allow a technician to perform those

delegated tasks if the pharmacist on duty is comfortable that the technician has the appropriate training to perform a specific task and the pharmacist is comfortable delegating that task to them. Under no circumstances can a pharmacist delegate or attempt to delegate to a technician the administration of a vaccine or immunization unless authority for that task is specifically provided for in statute or rule.

Arizona is not alone in moving towards a permissive format for technician duties, a format other states have found safe and effective. In recent years, Idaho deleted vast portions of its regulatory structure, moving towards a standard of care model that allows pharmacists to practice within accepted standards of care, including the authority to delegate tasks to pharmacy technicians in compliance with those standards.<sup>1</sup> Florida moved towards a format similar to the proposed Arizona revisions where only excluded tasks are listed, allowing the pharmacist to delegate any other tasks within their professional judgement and the technician's training.<sup>2</sup> Texas has similar language.<sup>3</sup> The National Association of Boards of Pharmacy ("NABP"), the national association for state boards of pharmacy of which the Arizona Board of Pharmacy is a member, created a task force in 2018 to review this trend. The task force recommended that NABP encourage state boards of pharmacy to review their regulations to determine what may need to be revised or eliminated, while recognizing evolving pharmacy practice and ensuring public protection.<sup>4</sup> NABP, and these states listed here, realized the need to create rules that allow for safe and effective innovation without the need for rulemaking each time technology advances.

The proposed changes would also allow for Arizona pharmacies to enhance pharmacy operations without having to request a deviation under Ariz. Rev. Stat. § 32-1904(B)(6). As currently drafted, Ariz. Admin. Code R4-23-1104(B) does not include prescription transfers in its list of a pharmacy technician's permissible duties. A major Arizona pharmacy employer went to the Board in late 2019 and early 2020 to ask that transfers of noncontrolled prescriptions by technicians be permitted. The Board granted the request, but only on a trial basis. The deviation has been a success, but the pharmacy must make regular reports to the Board and eventually ask for a renewal of the deviation. Three more large employers have made the same request, but also had to follow the deviation request process. The proposed rules would allow pharmacists to delegate appropriate tasks to trained technicians without pharmacies having to repeatedly ask for deviations or approach the Board to waive a restriction that is found to be outdated.

The Board worked diligently with stakeholders during this process. Knowing that prescribers and their staff are often dealing with pharmacies, pharmacists, and pharmacy

---

<sup>1</sup> See *"Rethinking Pharmacy Regulation: Core elements of Idaho's transition to a standard of care approach"*, Journal of the American Pharmacists Association, Volume 60, Issue 6, E109-112, published July 16, 2020.

<sup>2</sup> Fla. Admin. Code R. 64B16-27.420

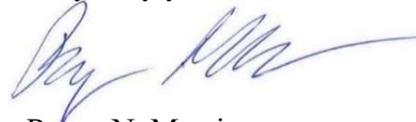
<sup>3</sup> "Pharmacists are solely responsible for the direct supervision of pharmacy technicians and pharmacy technician trainees and for designating and delegating duties, other than those listed in paragraph (2) of this subsection, to pharmacy technicians and pharmacy technician trainees. Each pharmacist shall be responsible for any delegated act performed by pharmacy technicians and pharmacy technician trainees under his or her supervision." Tex. Admin. Code § 291.32(c)(1)(C).

<sup>4</sup> <https://nabp.pharmacy/wp-content/uploads/2018/12/Task-Force-to-Develop-Regulations-Based-on-Standards-of-Care-December-2018.pdf>, accessed May 1, 2022.

technicians on a daily basis to communicate prescriptions and resolve issues, the Board reached out to the Arizona Medical Association to discuss these changes. The Arizona Medical Association approved of the changes and agreed that they would increase the ability to efficiently provide patient care. The Board also held multiple meetings with stakeholders, including local pharmacies, pharmacists, and pharmacy chain representatives. All agreed that these changes made sense for how pharmacy is practiced now, and where it is headed in the future.

I hope you'll agree with us that reducing the regulatory burden on pharmacies and pharmacists and allowing pharmacy technicians to assist with tasks they are trained to do would improve the pharmacy experience for Arizona patients and increase the speed at which those services are provided. GRRC was established when it was determined to be in the public interest to ensure that administrative rules and regulations avoid unnecessary duplication and adverse impact upon the public. The rule proposal supports the public interest, allowing pharmacy technician duties to safely evolve while promoting administrative efficiency by reducing the need to approach the Board with a deviation request or request for rule-making to allow those changes to occur.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Roger N. Morris", with a long horizontal flourish extending to the right.

Roger N. Morris  
Susan Brichler Trujillo  
Bailey Walden



GRRC - ADOA <grrc@azdoa.gov>

## Support for Rules Proposal: BOARD OF PHARMACY

Kelly Fine <kelly@azpharmacy.org>

Tue, May 3, 2022 at 8:48 AM

To: "grrccomments@azdoa.gov" <grrccomments@azdoa.gov>, "grrc@azdoa.gov" <grrc@azdoa.gov>

Dear Chairperson Nicole Sornsin and GRRC Council Members,

I am writing to respectfully ask for your support of the Board of Pharmacy rules package being heard today. As indicated in the attached support letter, our organization has participated in multiple stakeholder meetings since 2019 with the Board of pharmacy, Governor's office, local pharmacy employers, and Arizona Medical Associations (ArMA, AOMA) over the last 2 years. The goal of the rules package is to allow pharmacists to delegate administrative tasks to free up their time so it can be spent on clinical services and activities. Many states already allow this, so we were also attempting to modernize our rules to reflect current practice and technology advances. This is reflective of how other Health Care Providers operate in the use of medical assistants, nurse assistants, dental assistants etc. The stakeholders involved in this process were very thoughtful about ensuring patient safety and strongly feel that the delegation of administrative tasks to Pharmacy Technicians will allow the pharmacist to focus on direct patient care activities thereby increasing patient safety.

If you have any additional questions, please feel free to reach out to me directly.

Sincerely,

# Kelly Fine

Kelly Fine, RPh, FAzPA

CEO | Arizona Pharmacy Association

[1845 East Southern Ave; Tempe, AZ 85282](#)

O: 480.838.3385 | C: 480.241.1106



**Pharmacy Board Rules\_GRRC Letter\_5-3-22.pdf**  
192K



May 3, 2022

Governor's Regulatory Review Council  
[grrcomments@azdoa.gov](mailto:grrcomments@azdoa.gov)

Re: Support for Rules Proposal: BOARD OF PHARMACY-Title 4, Chapter 23, Article 4, Professional Practices and Article 11, Pharmacy Technicians (Amend: R4-23-411, R4-23-1104)

Dear Chairperson Nicole Sornsins and GRR Council Members,

We appreciate the opportunity to give you an explanation on why we support the proposed Board of Pharmacy Rules package. Our organization has participated in multiple stakeholder meetings since 2019 with the Board of pharmacy, Governor's office, local pharmacy employers, and Arizona Medical Associations (ArMA, AOMA) over the last 2 years. The goal of the rules package is to allow pharmacists to delegate administrative tasks to free up their time so it can be spent on clinical services and activities. Many states already allow this, so we were also attempting to modernize our rules to reflect current practice and technology advances. This is reflective of how other Health Care Providers operate in the use of medical assistants, nurse assistants, dental assistants etc.

First, I wanted to take an opportunity to address a concern that has come up multiple times during the GRR Council Hearings regarding whether this rule package needed to go through the legislature and Sunrise Review Process. According to existing statute this request falls under the current authority of the Board of Pharmacy according to ARS [32-1904-Subsection A1 and B7](#)<sup>1</sup> as outlined below:

**ARS 32-1904. Powers and duties of board; immunity**

**A. The board shall:**

*1. Make bylaws and adopt rules that are necessary to protect the public and that pertain to the practice of pharmacy, the manufacturing, wholesaling, or supplying of drugs, devices, poisons or hazardous substances, the use of pharmacy technicians and support personnel and the lawful performance of its duties.*

**B. The board may:**

*7. Adopt rules for the training and practice of pharmacy interns, pharmacy technicians and support personnel.*

The proposed rules are **not** increasing the scope of the profession listed in ARS [Title 32-Chapter 18 - Pharmacy](#) as pharmacists already have the statutory authority to perform all of the delegated tasks listed below, we are simply asking for pharmacists to be given the option to delegate a component of an already granted scope to our ancillary staff-the trained pharmacy technician. It is also important to mention that technicians cannot practice independently they must be working under the supervision of a pharmacist and can only perform tasks allowed by Board according to [AAC R4-23-1104](#)<sup>2</sup>.

<sup>1</sup> 32-1904. Powers and duties of board; immunity. <https://www.azleg.gov/ars/32/01904.htm>

<sup>2</sup> TITLE 4. PROFESSIONS AND OCCUPATIONS-CHAPTER 23. BOARD OF PHARMACY-ARTICLE 11-PHARMACY TECHNICIANS R4-23-1104. [https://qa.azsos.gov/public\\_services/Title\\_04/4-23.htm#Article\\_11](https://qa.azsos.gov/public_services/Title_04/4-23.htm#Article_11)

**AAC R4-23-1104**

F. Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee tasks.

G. A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures required under subsection (F) include the following:

1. For all practice sites:
  - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
  - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
  - c. The tasks a pharmacy technician or pharmacy technician trainee may perform as specified under subsections (A) and (B);
  - d. Pharmacist and patient communication;
  - e. Reporting, correcting, and avoiding medication and dispensing errors;
  - f. Security procedures for:
    - i. Confidentiality of patient prescription records, and
    - ii. The pharmacy area;
  - g. Automated medication distribution system;
  - h. Compounding procedures for pharmacy technicians; and
  - i. Brief overview of state and federal pharmacy statutes and rules;

It is important to note that technicians in Arizona are not only licensed but are required to be certified by passing a National Certification Exam (PTCB or ExCPT). The Arizona Board of Pharmacy has jurisdiction over the licensed technician and the supervising pharmacist as there is a responsibility to supervise all ancillary pharmacy staff and failure to do so can result in Board discipline.

In conclusion the stakeholders involved in this process were very thoughtful about ensuring patient safety and strongly feel that the delegation of administrative tasks to Pharmacy Technicians will allow the pharmacist to focus on direct patient care activities thereby increasing patient safety. This has been shown to be the case in numerous states that already allow pharmacist delegation:

- States that allow pharmacist delegation of certain administrative tasks to Pharmacy Technicians that include vaccine administration: AK, AL, AR, CO, IA, ID, IL, IN, KY, LA, MI, MO, ND, NH, NM, NV, OK, RI, TN, UT, VT, WA, WI

**Important Elements of the Proposed Rule:**

Proposed rule will allow a Pharmacy Technician to perform additional tasks that are:

1. Delegated **by** the pharmacist on duty
2. Delegated **after** the pharmacist on duty ensures the pharmacy technician is trained to do the task

Note: Proposed rules also requires the evidence of the training to exist in the pharmacy file. *(This will be available for the Board during the routine inspections that already occur in all pharmacies)*

A pharmacist on duty **shall NOT delegate** the following tasks to a Pharmacy Technician:

- a. Administering an emergency medication,
- b. Counseling a patient,

- c. Conducting a drug utilization review,
- d. Performing any task that requires the exercise of clinical judgment,
- e. Issuing a prescription order,
- f. Receiving a new prescription order for a controlled substance, or
- g. Transferring by telephone an existing prescription order for a controlled substance and

**The pharmacist on duty shall not delegate or attempt to delegate to a pharmacy technician the administering of an immunization or vaccine unless authority for the administration is specifically provided by statute or rule.**

Thank you in advance for your consideration of this rules package. If you have any additional questions, please let us know.

Sincerely,

*Kelly Fine*

Kelly Fine, RPh, FAzPA  
CEO | Arizona Pharmacy Association  
1845 East Southern Ave; Tempe, AZ 85282  
O: 480.838.3385 | C: 480.241.1106

NANCY BARTO  
SENATE HEALTH & HUMAN SERVICES CHAIR  
1700 WEST WASHINGTON, SENATE  
PHOENIX, ARIZONA 85007-2844  
PHONE: (602) 926-5766  
nbarto@azleg.gov  
DISTRICT 15



COMMITTEES:  
HEALTH & HUMAN SERVICES  
JUDICIARY  
EDUCATION

# Arizona State Senate

May 3, 2022

VIA EMAIL [grrccomments@azdoa.gov](mailto:grrccomments@azdoa.gov)  
Governor's Regulatory Review Council  
100 N. 15th Avenue, Suite 305  
Phoenix, AZ 85007

RE: In Support of Rules Proposal: BOARD OF PHARMACY-TITLE 4, Chapter 23, Article 4,  
Professional Practices and Article 11, Pharmacy Technicians (Amend: R4-23-311, R4-23-1105)

Dear Chairwoman Sornsinsin and GRRC Council Members:

Today the Council will have an opportunity to move the Board of Pharmacy's amended rulemaking proposal forward or to do otherwise. I very much appreciated last week's study session discussion regarding the Board's original proposal. In my view, two main concerns were raised, leading to the Board's amended proposal before the GRRC today:

1. The confusing language and possibility that the words, "any task" could be construed to include vaccination administration as a delegated task, which would be inappropriately decided by a pharmacist without explicit statute or rule
2. The intent of and role of the Board to address industry efficiencies – as opposed to its primary mission of public safety

A third is the fact that no studies were cited for the Board's action – only other states' and industry's activities. Nothing citing improved patient safety, only implied patient safety due to efficiencies.

The Board took my and Councilmembers' concerns seriously and clarified the proposed language sufficiently regarding, "any task", so there is no doubt of the intent. This is a positive development-and frankly the main issue at hand in my opinion on this particular matter. I believe the other 2 issues raised (the lack of safety studies and the primary mission of the Board) are important and it is right that both were discussed, but clarifying the current rule according to statute was the most important task of the Board – and will clear things up for the industry regarding the role of Pharmacy Technicians and their important administrative role.

At the end of the day, I have no issue with the revised rulemaking and would support its clarifications and parameters set forth as resubmitted.

My final thought is this: That the original vague language was proposed and could have been misconstrued by industry and pharmacists to enable pharmacy technicians to go beyond their scope simply through delegated authority remains troubling to me. Original intent aside, in my opinion, proponents should have been the first to ask for clarity in the language as their members will have to abide by its directives. It could be assumed that proponents understood the original language was intended to be what the clarified version reflects, but it does give lawmakers like myself pause that proponents were silent regarding the lack of clarity, but expressed unquestioned support. We should all expect better in the future.

Thank you again for the opportunity to participate in this important discussion. I very much appreciate Councilmembers' dedicated service on this Council in service to the citizens of this state.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy Barto', written in a cursive style.

Nancy Barto  
Arizona Senate  
Legislative District 15

**BOARD OF ACCOUNTANCY**

Title 4, Chapter 1

**Amend:** R4-1-101, R4-1-104, R4-1-115.03, R4-1-345, R4-1-453, R4-1-454, R4-1-455



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

---

**MEETING DATE:** May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** April 15, 2022

**SUBJECT: BOARD OF ACCOUNTANCY**  
Title 4, Chapter 1

**Amend:** R4-1-101, R4-1-104, R4-1-115.03, R4-1-345, R4-1-453, R4-1-454,  
R4-1-455

---

### **Summary:**

This regular rulemaking from the Board of Accountancy (Board) seeks to amend seven (7) rules in Title 4, Chapter 1, Articles 1, 3, and 4 related to the certification, registration, and regulation of certified public accountants (CPAs) in Arizona. Specifically, the Board seeks to make the following amendments to the rules:

- Include a definition of principal place of business to provide clarity to CPAs requesting continuing professional education (CPE) reciprocity.
- Clarify responsibilities of the Peer Review Oversight Advisory Committee (PROAC).
- Extend the Board's temporary biennial registration fee reduction for an additional two years.
- Clarify that CPE taken to comply with a granted CPE extension cannot be used again for a subsequent registration period.
- Update incorporations by reference in R4-1-454 and R4-1-455 related to most current versions of the peer review standards and the American Institute of Certified Public Accountants' Code of Professional Conduct.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

The Board cites both general and specific statutory authority for these rules.

2. **Do the rules establish a new fee or contain a fee increase?**

This rulemaking does not establish a new fee or contain a fee increase. Effective April 5, 2021, the Board introduced a temporary biennial registration fee reduction, which reduced the biennial registration fee from \$300.00 to \$275.00 for registrations due during the period from July 1, 2020 to June 30, 2022. The Board seeks to amend R4-1-345 to extend this temporary fee reduction to June 30, 2024 to further reduce its fund balance.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Board did not review or rely on any study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

All stakeholders are expected to benefit from clarified rules that reflect current standards of peer review and the American Institute of Certified Public Accountants' Code of Professional Conduct, which directly ties to the Board's mission to protect the public.

A continued temporary fee reduction is expected to reduce the Board's fund balance but will save money for the regulated community in fiscal years 2023 and 2024.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Board believes this is the least costly and least intrusive method. Most changes are either technical, conforming, or clarifying in nature.

6. **What are the economic impacts on stakeholders?**

The rules are expected to impact the Board, PROAC, registrants, the regulated community, and the public.

The Board is expected to benefit from clarified rules that reflect current standards. This will help the Board in its mission to protect the public from incompetent and unqualified CPAs, which in turn benefits the public. However, a biennial registration fee reduction from \$300 to \$275 is expected to reduce Board revenues and its fund balance.

PROAC and registrants are expected to benefit from the rules clarifying the Committee's authority to make advisory recommendations to the Board concerning peer review and monitor the peer review program and report to the Board on its effectiveness.

The regulated community is expected to save approximately \$244,300 in fiscal years 2023 and 2024 due to the extension of a biennial registration fee reduction. The regulated community is also expected to benefit from clarified rules.

**7. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

The Board indicates it corrected a clerical error in the Notice of Proposed Rulemaking. Specifically, while new language was included in R4-1-115.03(A)(2), underlining for the new language was inadvertently excluded. The Board indicates this error is corrected in the current Notice of Final Rulemaking before the Council for consideration.

**8. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Board indicates it received no comments related to this rulemaking. Additionally, the Board indicates no one presented oral or written comments at the oral proceedings for this rulemaking held on November 8, 2021.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The Board indicates the rules being amended do not require a permit, license, or agency authorization.

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. The Board indicates there are no federal laws regarding CPAs or any other subjects of the rules.

**11. Conclusion**

This regular rulemaking from the Board of Accountancy (Board) seeks to amend seven (7) rules in Title 4, Chapter 1, Articles 1, 3, and 4 related to the certification, registration, and regulation of CPAs in Arizona. The Board is seeking the standard 60-day delayed effective date pursuant to A.R.S. § 41-1032(A).

Council staff recommends approval of this rulemaking.



# ARIZONA STATE BOARD OF ACCOUNTANCY

100 N. 15<sup>th</sup> Ave., Suite 165  
Phoenix, AZ 85007  
(602) 364-0804  
Fax (602) 364-0903  
info@azaccountancy.gov

February 11, 2022

The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: Request for Approval - Notice of Final Rulemaking**

Council Members:

I am pleased to submit the Notice of Final Rulemaking on behalf of the Arizona Board of Accountancy. Pursuant to A.A.C. R1-6-201(A)(1), I have addressed the following:

- a. **The close of record date** – November 8, 2021
- b. **Whether the rulemaking activity relates to a five-year rule review report and, if applicable, the date the report was approved by Council** – This rulemaking does not relate to a five-year rule review report.
- c. **Whether the rule establishes a new fee and, if it does, citation of the statute expressly authorizing the new fee** – The rules do not establish a new fee.
- d. **Whether the rule contains a fee increase** – The rules do not contain a fee increase.
- e. **Whether an immediate effective date is requested under A.R.S. §41-1032** – An immediate effective date is not being requested.
- f. **A certification that the preamble discloses a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation or justification for the rule** – I certify that the Board did not review or rely on any study for this rulemaking.
- g. **If one or more full time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule** – No new FTEs are required to enforce the rules in the Notice of Final Rulemaking.
- h. **A list of all the documents enclosed** – Written requests for exemption from rulemaking moratorium and approvals, Notice of Final Rulemaking (including preamble); text of rules;

**The Americans with Disabilities Act**

Persons with disabilities may request reasonable accommodations, such as sign language interpreters. Requests should be made as early as possible to allow time to arrange the accommodation.

economic, small business, and consumer impact statement; material incorporated by reference; and general and specific statutes authorizing the rules.

Thank you for your consideration and approval of the Board's Notice of Final Rulemaking.

Sincerely,

A handwritten signature in blue ink, appearing to read "Monica L. Petersen", with a long horizontal flourish extending to the right.

Monica L. Petersen  
Executive Director

NOTICE OF FINAL RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 1. BOARD OF ACCOUNTANCY

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R4-1-101	Amend
R4-1-104	Amend
R4-1-115.03	Amend
R4-1-345	Amend
R4-1-453	Amend
R4-1-454	Amend
R4-1-455	Amend

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

Authorizing statute: A.R.S. § 32-703(B)(7) and (13)

Implementing statute: A.R.S. § 32-703(B)(8)

**3. The effective date of the rule:**

The agency accepts the standard effective date of 60 days as specified in A.R.S. § 41-1032(A).

**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: 27 A.A.R. 1542, September 24, 2021

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

Name: Monica L. Petersen, Executive Director  
Address: Board of Accountancy, 100 N. 15<sup>th</sup> Ave., Suite 165, Phoenix, AZ 85007  
Telephone: (602) 364-0870  
Fax: (602) 364-0903  
E-mail: mpetersen@azaccountancy.gov  
Website: [www.azaccountancy.gov](http://www.azaccountancy.gov)

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

R4-1-101. At the request of the Board, Laws 2018, Ch. 268 (SB 1443) moved the definition of principal place of business from Arizona Revised Statutes (A.R.S.) § 32-701 to A.R.S. § 32-725 regarding limited reciprocity privilege (mobility) because A.R.S. § 32-725 was the only section of law that referenced the defined term. Subsequently, effective February 4, 2019, the Board’s rules provided for continuing professional education (CPE) reciprocity wherein a non-Arizona resident certified public accountant (CPA) seeking renewal of their Arizona CPA certificate can meet the CPE requirements for Arizona if they have met the CPE requirements in the jurisdiction<sup>1</sup> in which the CPA’s principal place of business is located.

From time to time, registrants<sup>2</sup> requesting CPE reciprocity are confused about what “principal place of business” means. While a definition of “principal place of business” exists in A.R.S. § 32-725, it is restricted to that statute only. Accordingly, the Board would like to modify Arizona Administrative Code (A.A.C.) R4-1-101 to include the same definition in rule for CPE reciprocity.

R4-1-104. The Board also seeks to modify R4-1-104(A)(1) to change “C.P.A.” to “CPA” as “CPA” is used more commonly in the Board’s legal framework.

R4-1-115.03. Pursuant to A.R.S. § 32-703(B)(8) and A.A.C. R4-1-454, the Board requires CPA firms to comply with peer review standards. Specifically, if CPA firms perform attest services and compilation

---

<sup>1</sup> Pursuant to A.R.S. § 32-701(18), “Jurisdiction” means, for the purposes of examination, certification, firm registration or limited reciprocity privilege, the fifty states of the United States, the District of Columbia, the United States Virgin Islands, Guam, the Commonwealth of the northern Mariana Islands or the Commonwealth of Puerto Rico.

<sup>2</sup> Pursuant to A.R.S. § 32-701(24), “Registrant” means any certified public accountant or firm that is registered with the board.

services, they are to undergo and complete a peer review. When peer reviews are received and have pass ratings, they are reviewed by Board staff and approved via delegated authority (A.R.S. § 32-703(B)(14)(h)). If peer reviews have pass with deficiencies or fails, they are reviewed by the Peer Review Oversight Advisory Committee (PROAC), and either subsequently approved via the aforementioned delegated authority or sent to the Board with an advisory recommendation.

A.A.C. R4-1-115.03 currently provides that PROAC can make a recommendation to the Board to direct and authorized committee to conduct an initial analysis pursuant to A.R.S. §32-742.01. Pursuant to A.R.S. § 32-749, a file in initial analysis is considered confidential. As such, rather than having the PROAC make a recommendation to the Board to conduct an initial analysis specifically, the preference is to simply state that the PROAC can make advisory recommendations to the Board so a firm's confidentiality can be maintained. Additionally, the language regarding advisory recommendations supports the work that the PROAC has always done when it accepts a firm's peer review submission and deems the firm compliant with peer review requirements. The Board seeks to clarify the authority of its PROAC.

R4-1-345. Effective April 5, 2021, the Board introduced a temporary biennial registration fee reduction, which reduced the regular biennial registration fee from \$300.00 to \$275.00 and the inactive status biennial registration fee from \$150.00 to \$137.50 for registrations due during the period from July 1, 2020, to June 30, 2022. As a result of this temporary fee reduction, 4,961 CPAs with registrations due from July 1, 2020, through June 30, 2021, have saved a combined \$122,150. We expect a similar amount of savings for the current fiscal year. The temporary fee reduction is limited to CPA biennial registrations due during the period from July 1, 2020, to June 30, 2022. The Board would like to modify A.A.C. R4-1-345 to extend this temporary fee reduction to June 30, 2024, to further reduce its fund balance.

R4-1-453. A.A.C. R4-1-453(C)(7) currently does not allow registrants to reuse CPE hours that were used to vacate a suspension for nonregistration or suspension for noncompliance with CPE requirements for a subsequent registration period. A.A.C. R4-1-453(C)(6) is reworded to include the provisions of (C)(7) and adds that CPE taken to comply with a granted CPE extension cannot be used for a subsequent registration period.

R4-1-454 and R4-1-455. The Board seeks to update the incorporations by reference found in A.A.C. R4-1-454 and R4-1-455. A.R.S. § 41-1028(B) requires that a reference in rule fully identify an incorporated matter by location, date, and state that the rule does not include any later amendments or editions of the

incorporated matter.

**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 a rule in 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:**

Amendments to R4-1-101 are expected to positively affect the Board and the regulated community by having a definition of “principal place of business” enumerated in its rule. This will provide clarity to the regulated community if they request CPE reciprocity.

Amendments to R4-1-104 are not expected to have any economic, small business, or consumer impact.

Amendments to R4-1-115.03 are expected to positively affect registrants, the Board, and its Peer Review Oversight Advisory Committee by clarifying the Committee’s authority to make advisory recommendations to the Board concerning peer review and monitor the peer review program and report to the Board on its effectiveness.

Amendments to R4-1-345 are expected to affect the Board and the regulated community. Continuing the temporary biennial registration fee reduction, which reduced the biennial registration fee from \$300.00 to \$275.00, is expected to reduce Board revenues and its fund balance. CPAs submitting biennial renewals will benefit from the reduction as well. Extending the temporary biennial registration fee reduction is expected to save the regulated community approximately \$244,300.00 for fiscal years 2023 and 2024.

Amendments to R4-1-453 are expected to affect the Board, public, and the regulated community. Clarifying that registrants are unable to include CPE taken to comply with a granted CPE extension in a subsequent registration period positively affects the Board in its mission to protect the public from incompetent and unqualified CPAs, which in turn benefits the public. It also ensures equity across all CPAs in that all CPAs must adhere to the same CPE requirement whether or not they were suspended for non-registration or non-compliance with CPE or granted an extension of time to complete CPE. CPAs that attempt to use their CPE twice may be negatively impacted by this amendment if subjected to a CPE

audit. That said, the Board only audits about 1.5% of all registrants.

Amendments to R4-1-454 and R4-1-455 are expected to affect the Board, consumers, and the regulated community. The Board will benefit from being able to hold registrants accountable to the most current versions of the peer review standards and the American Institute of Certified Public Accountants' Code of Professional Conduct, which directly ties to the Board's mission to protect the public. As this update will assist the Board in better fulfilling its mission, the public will also benefit from the more effective protection. Lastly, the regulated community will be affected by being held accountable to these more current standards as it would cause confusion to the regulated community for the Board to enforce older standards.

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

A clerical error was corrected in the Notice of Final Rulemaking. While new language was included in A.A.C. R4-1-115.03(A)(2), underlining for the new language was inadvertently excluded. This has since been corrected.

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

No comments were received regarding the Notice of Proposed Rulemaking. No one presented oral or written comments at the oral proceeding held on November 8, 2021. The record closed at 5:00 p.m. on November 8, 2021.

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

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

The rules do not require a permit.

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

There is no federal law regarding CPAs or any other subjects of the rules.

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

No analysis was submitted.

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

**rule:**

R4-1-454(A) – Standards for Performing and Reporting on Peer Reviews

<https://www.aicpa.org/content/dam/aicpa/research/standards/peerreview/downloadabledocuments/peerreviewstandards.pdf>

R4-1-455(A) – Code of Professional Conduct

<https://pub.aicpa.org/codeofconduct/ethicsresources/et-cod.pdf>

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

No rule in this rulemaking was previously made, amended, or repealed as an emergency rule.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 1. BOARD OF ACCOUNTANCY**

**ARTICLE 1. GENERAL**

- R4-1-101. Definitions
- R4-1-104. Board Records; Public Access; Copying Fees
- R4-1-115.03 Peer Review Oversight Advisory Committee

**ARTICLE 3. CERTIFICATION AND REGISTRATION**

- R4-1-345. Registration; Fees

**ARTICLE 4. REGULATION**

- R4-1-453. Continuing Professional Education
- R4-1-454. Peer Review
- R4-1-455. Professional Conduct and Standards

## Article 1 – General

### R4-1-101. Definitions

- A. The definitions in A.R.S. § 32-701 apply to this chapter.
- B. In this chapter, unless the context otherwise requires:
1. “Contested case” means any proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
  2. “CPE” or “continuing professional education” means attending classes, writing articles, conducting or teaching courses, and taking self-study courses if the activities contribute to maintaining and improving of professional competence in accounting.
  3. “Facilitated State Board Access (FSBA)” means the sponsoring organization’s process for providing the Board access to peer review results via a secured website.
  4. “Party” means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
  5. “Peer review” means an assessment, conducted according to R4-1-454(A), of one or more aspects of the professional work of a firm.
  6. “Peer review program” means the sponsoring organization’s entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.
  7. “Person” may include any individual, and any form of corporation, partnership, or professional limited liability company.
  8. “Principal place of business” means the office designated by the individual as the principal location for the individual’s practice of accounting.
  - 8-9. “Sponsoring organization” means a Board-approved professional society, or other organization approved by the Board responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.
  - 9-10. “Upper level course” means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include ~~principals-principles~~ of accounting or similar introductory accounting courses.

### R4-1-104. Board Records; Public Access; Copying Fees

- A. The Board shall maintain all records, subject to A.R.S. Title 39, Chapter 1, reasonably necessary or appropriate to maintain an accurate knowledge of the Board’s official activities including, but not limited to:
1. Applications for ~~C.P.A.~~ CPA certificates and supporting documentation and correspondence;
  2. Applications to take the Uniform Certified Public Accountant Examination;
  3. Registration for registrants;
  4. Documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; and;
  5. Investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.
- B. Any person desiring to inspect or obtain copies of records of the Board available to the public under this section shall make a request to the Board's Executive Director or the Director's designee. The Executive Director or the director’s designee shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director or the director’s designee is unsure whether a record may be made available for public inspection and copying, the Executive Director or the director’s designee shall refer the matter to the Board for final determination.
- C. A person shall not remove original records of the Board from the office of the Board unless the records are in the custody and control of a board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director or the director’s designee may designate a staff member to observe and monitor any examination of Board records.
- D. The Board shall provide copies of all records available for public inspection and copying shall be provided

according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.

- E. Any person aggrieved by a decision of the Executive Director or the director's designee denying access to records of the Board may request a hearing before the Board to review the action of the Executive Director or the director's designee by filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person requires immediate access to Board records, the person may request and may be granted an earlier hearing, if the person sets forth sufficient grounds for immediate access.

#### **R4-1-115.03. Peer Review Oversight Advisory Committee**

- A. The Board may appoint an advisory committee to ~~monitor and conduct the peer review program. Upon appointment the committee shall:~~
  - 1. ~~Advise the Board on matters relating to the peer review program;~~ Make advisory recommendations to the Board concerning peer review, and
  - 2. ~~Report to the Board on effectiveness of the peer review program;~~ Monitor the peer review program and report to the Board on its effectiveness.
  - 3. ~~Make a recommendation to the Board to direct an authorized committee to conduct an initial analysis.~~
- B. The Board may accept, reject, or modify recommendations of the Peer Review Oversight Advisory Committee.

### **Article 3 – Certification and Registration**

#### **R4-1-345. Registration; Fees**

- A. Initial registration: After the Board approves an applicant's request for certification or firm registration, the registrant shall file a registration in a format prescribed by the Board and pay a registration fee under subsection (C).
- B. Renewal registration: A registrant shall file an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board's office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
  - 1. Individual registrant: An individual registrant shall renew registration at the following times:
    - a. A registrant born in an even-numbered year shall renew registration during the month of birth in each even-numbered year.
    - b. A registrant born in an odd-numbered year shall renew registration during the month of birth in each odd-numbered year.
  - 2. Firm registrant: A firm shall renew registration at the following times:
    - a. A business organization firm that initially registered with the Board in an even-numbered year shall renew registration during the board-approved month of the initial registration in each even-numbered year.
    - b. A business organization firm that initially registered with the Board in an odd-numbered year shall renew registration during the board-approved month of the initial registration in each odd-numbered year.
    - c. An individual or a sole proprietorship firm shall renew its registration pursuant to paragraph (B)(1).
- C. Registration fees:
  - 1. Initial Registration Fee –
    - a. Certification – \$300 and, if applicable, a late fee of \$50.
    - b. The registration fee shall be prorated by month for an initial registration period of less than two years.
  - 2. Biennial Registration Fee –
    - a. Certification – \$300 and, if applicable, a late fee of \$50.

- i. For registrations due during the period from July 1, 2020 to June 30, ~~2022~~ 2024, the biennial registration fee will be reduced temporarily to \$275.
  - ii. For registrations due beginning July 1, ~~2022~~ 2024, the biennial registration fee will revert to \$300.
- b. Firm Registration – \$300 and, if applicable, a late fee of \$50. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.

#### **Article 4 – Regulation**

##### **R4-1-453. Continuing Professional Education**

- A. Measurement Standards. The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.
1. CPE credit shall be given in one-fifth or one-half increments for periods of not less than one class hour except as noted in paragraph 8. The computation of CPE credit shall be measured as follows:
    - a. A class hour shall consist of a minimum of 50 continuous minutes of instruction
    - b. A half-class hour shall consist of a minimum of 25 continuous minutes of instruction
    - c. A one-fifth class hour shall consist of a minimum of 10 continuous minutes of instruction.
  2. Courses taken at colleges and universities apply toward the CPE requirement as follows:
    - a. Each semester - system credit hour is worth 15 CPE credit hours,
    - b. Each quarter - system credit hour is worth 10 CPE credit hours, and
    - c. Each noncredit class hour is worth one CPE credit hour.
  3. Each correspondence program hour is worth one CPE credit hour.
  4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and shall allow CPE credit for preparation time that is less than or equal to the presentation hours. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.
  5. The following may be counted for a maximum of 20 hours of CPE credit during each renewal period.
    - a. Credit may be earned for writing and publishing articles or books that contribute to the accounting profession and is published by a recognized third-party publisher of accounting material or a sponsor as long as it is not used in conjunction with a seminar.
    - b. Credit may be earned for the writing or development of online course curriculum for undergraduate, graduate, or doctoral education that contribute to the accounting profession.
    - c. Two credit hours will be given for each 3,000 words of original material written or developed into curriculum. Materials must be at least 3,000 words in length. Multiple authors may share credit for material written or developed into curriculum.
  6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (A)(4) and (5) above during each renewal period.
  7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as consulting services pursuant to subsection (C).
  8. A registrant may earn a maximum of 4 hours of CPE during each renewal period by completing nano-learning courses. A nano-learning program is a tutorial program designed to permit a participant to learn a given subject in a ten-minute time-frame through the use of electronic media and without interaction with a real time instructor.
  9. CPE credit shall be given in one-fifth or one-half hour increments if the CPE is a segment of a continuing series related to a specific subject as long as the segments are connected by an overarching course that is a minimum of one hour and taken within the same CPE reporting period.

10. Credit shall not be allowed for repeat participation in any seminar or course during the registration period.
- B. Programs that Qualify.** CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.
1. The Board shall accept a CPE course as qualified if it:
    - a. Is developed by persons knowledgeable and experienced in the subject matter,
    - b. Provides written outlines or full text,
    - c. Is administered by an instructor or organization knowledgeable in the program, and
    - d. Uses teaching methods consistent with the study program.
  2. The Board shall accept a correspondence program which includes online or computer based programs if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
  3. An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection (C)(4).
- C. Hour Requirement.** As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-732(A), a registrant shall complete the CPE requirements during the two-year period immediately before registration or application respectively as specified under subsections (C)(1) through (C)(5). For registration periods of less than two years CPE may be prorated by quarter, with the exception of ethics.
1. A registrant whose last registration period was for two years shall complete 80 hours of CPE.
  2. A registrant shall complete a minimum of 40 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation.
  3. A registrant shall complete a minimum of 16 of the required hours:
    - a. In a classroom setting,
    - b. Through an interactive live webinar, or
    - c. By acting as a lecturer or discussion leader in a CPE program, including college courses
  4. A registrant shall complete four hours of CPE in the subject area of ethics. The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
    - a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants, and
    - b. Board statutes and administrative rules.
  5. A registrant shall report, at a minimum, the CPE hours required for the registration period.
  6. ~~Hours that exceed the number required for the current registration period may not be carried forward to a subsequent registration period. CPE hours completed for a registration period may not be used for a subsequent registration period in any of the following instances:~~
    - a. To vacate a suspension for nonregistration,
    - b. To vacate a suspension for noncompliance with CPE requirements, or
    - c. To comply with a granted CPE extension.
  7. ~~Any CPE hours completed to vacate a suspension for nonregistration or for noncompliance with CPE requirements may not be used to meet CPE requirements for the registration period.~~
  8. ~~7.~~ As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, a registrant or an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated by quarter, with the exception of ethics.
    - a. A registrant or an applicant shall complete a minimum of 80 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
    - b. A registrant or an applicant shall complete a minimum of 32 hours of the required hours:
      - i. In a classroom setting,
      - ii. Through an interactive live webinar, or
      - iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.

- c. A registrant or an applicant shall complete CPE in the subject area of ethics. Four hours of ethics CPE shall be required if 1 – 24 months have passed since the last registration due date for which CPE was completed. Eight hours of ethics CPE shall be required if 25 – 48 months have passed since the last registration due date for which CPE was completed. The hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:
  - i. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and
  - ii. Board statutes and administrative rules.
- D. Reporting: A registrant or an applicant for reactivation or reinstatement, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE:
  - 1. Sponsoring organization,
  - 2. Number of CPE credit hours,
  - 3. Title of program or description of content,
  - 4. Dates attended,
  - 5. Subject, and
  - 6. Method.
- E. In addition to the information required under subsection (D), a registrant or an applicant for reactivation or reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to subsection (G) shall provide the Board the following CPE records at its request: copies of transcripts, course outlines, and certificates of completion that include registrant’s name, course provider or sponsor, course title, credit hours, and date of completion.
- F. CPE Record Retention: A registrant shall maintain CPE records for three years from the date the registration was dated as received by the Board the following documents for all CPE completed for the registration period, even if not reported on the registration: transcripts, course outlines, and certificates of completion that include registrant’s name, course provider or sponsor, course title, credit hours, and date of completion.
- G. CPE audits: The Board, at its discretion, may conduct audits of a registrant’s CPE and require that the registrant provide the CPE records that the registrant is required to maintain under subsection (F) to verify compliance with CPE requirements.
- H. The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.
- I. A non-resident registrant seeking renewal of a certificate in this state shall be determined to have met the CPE requirements of this rule by meeting the CPE requirements for renewal of a certificate in the jurisdiction in which the registrant’s principal place of business is located.
  - 1. Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the jurisdiction in which the registrant’s principal place of business is located by signing a statement to that effect on the renewal application of this state.
  - 2. If a non-resident registrant’s principal place of business jurisdiction has no CPE requirements for renewal of a certificate or license, the non-resident registrant must comply with all CPE requirements for renewal of a certificate in this state.

**R4-1-454. Peer Review**

- A. Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, issued April 2019 and published June 1, ~~2020~~ 2021 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 (www.aicpa.org), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board’s office.
- B. A firm must allow the sponsoring organization to make the following documents accessible to the Board via

the FSBA process:

1. Peer review report which has been accepted by the sponsoring organization,
  2. Firm's letter of response accepted by the sponsoring organization, if applicable,
  3. Completion letter from the sponsoring organization,
  4. Letter(s) accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the sponsoring organization, if applicable, and
  5. Letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.
- C. Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.
- D. Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this Section. If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

**R4-1-455. Professional Conduct and Standards**

- A. It is the Board's policy that the rules governing registrants be consistent with the rules governing the accounting profession generally. Except as otherwise set forth in these regulations, registrants shall conform their conduct to the Code of Professional Conduct, published June 1, ~~2020~~ 2021 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 ([www.aicpa.org](http://www.aicpa.org)), available from the AICPA.
- B. The AICPA Code of Professional Conduct, and any interpretations and ethical rulings by the issuing body, shall apply to all registrants, including those who are not members of the AICPA. The version specified above, including any interpretations and ethical rulings in effect shall apply. Any later amendments, additions, interpretations, or ethical rulings shall not apply.

**ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 1. BOARD OF ACCOUNTANCY**

1. Identification of the rulemaking:

R4-1-101. At the request of the Board, Laws 2018, Ch. 268 (SB 1443) moved the definition of principal place of business from Arizona Revised Statutes (A.R.S.) § 32-701 to A.R.S. § 32-725 regarding limited reciprocity privilege (mobility) because A.R.S. § 32-725 was the only section of law that referenced the defined term. Subsequently, effective February 4, 2019, the Board’s rules provided for continuing professional education (CPE) reciprocity wherein a non-Arizona resident certified public accountant (CPA) seeking renewal of their Arizona CPA certificate can meet the CPE requirements for Arizona if they have met the CPE requirements in the jurisdiction<sup>1</sup> in which the CPA’s principal place of business is located.

From time to time, registrants<sup>2</sup> requesting CPE reciprocity are confused about what “principal place of business” means. While a definition of “principal place of business” exists in A.R.S. § 32-725, it is restricted to that statute only. Accordingly, the Board would like to modify Arizona Administrative Code (A.A.C.) R4-1-101 to include the same definition in rule for CPE reciprocity.

R4-1-104. The Board also seeks to modify R4-1-104(A)(1) to change “C.P.A.” to “CPA” as “CPA” is used more commonly in the Board’s legal framework.

R4-1-115.03. Pursuant to A.R.S. § 32-703(B)(8) and A.A.C. R4-1-454, the Board requires CPA

---

<sup>1</sup> Pursuant to A.R.S. § 32-701(18), “Jurisdiction” means, for the purposes of examination, certification, firm registration or limited reciprocity privilege, the fifty states of the United States, the District of Columbia, the United States Virgin Islands, Guam, the Commonwealth of the northern Mariana Islands or the Commonwealth of Puerto Rico.

<sup>2</sup> Pursuant to A.R.S. § 32-701(24), “Registrant” means any certified public accountant or firm that is registered with the board.

firms to comply with peer review standards. Specifically, if CPA firms perform attest services and compilation services, they are to undergo and complete a peer review. When peer reviews are received and have pass ratings, they are reviewed by Board staff and approved via delegated authority (A.R.S. § 32-703(B)(14)(h)). If peer reviews have pass with deficiencies or fails, they are reviewed by the Peer Review Oversight Advisory Committee (PROAC), and either subsequently approved via the aforementioned delegated authority or sent to the Board with an advisory recommendation.

A.A.C. R4-1-115.03 currently provides that PROAC can make a recommendation to the Board to direct and authorized committee to conduct an initial analysis pursuant to A.R.S. §32-742.01. Pursuant to A.R.S. § 32-749, a file in initial analysis is considered confidential. As such, rather than having the PROAC make a recommendation to the Board to conduct an initial analysis specifically, the preference is to simply state that the PROAC can make advisory recommendations to the Board so a firm's confidentiality can be maintained. Additionally, the language regarding advisory recommendations supports the work that the PROAC has always done when it accepts a firm's peer review submission and deems the firm compliant with peer review requirements. The Board seeks to clarify the authority of its PROAC.

R4-1-345. Effective April 5, 2021, the Board introduced a temporary biennial registration fee reduction, which reduced the regular biennial registration fee from \$300.00 to \$275.00 and the inactive status biennial registration fee from \$150.00 to \$137.50 for registrations due during the period from July 1, 2020, to June 30, 2022. As a result of this temporary fee reduction, 4,784 CPAs with registrations due from July 1, 2020, through June 30, 2021, have saved a combined \$119,600. We expect a similar amount of savings for the current fiscal year. The temporary fee reduction is limited to CPA biennial registrations due during the period from July 1, 2020, to June 30, 2022. The Board would like to modify A.A.C. R4-1-345 to extend this temporary fee reduction to June 30, 2024, to further reduce its fund balance.

R4-1-453. A.A.C. R4-1-453(C)(7) currently does not allow registrants to reuse CPE hours that were used to vacate a suspension for nonregistration or suspension for noncompliance with CPE requirements for a subsequent registration period. A.A.C. R4-1-453(C)(6) is reworded to include the provisions of (C)(7) and adds that CPE taken to comply with a granted CPE extension cannot be used for a subsequent registration period.

R4-1-454 and R4-1-455. The Board seeks to update the incorporations by reference found in A.A.C. R4-1-454 and R4-1-455. A.R.S. § 41-1028(B) requires that a reference in rule fully identify an incorporated matter by location, date, and state that the rule does not include any later amendments or editions of the incorporated matter.

a. The conduct and its frequency of occurrence<sup>3</sup> that the rule is designed to change:

R4-1-101. To qualify for CPE reciprocity, registrants must meet the CPE requirements in the jurisdiction in which the CPA's principal place of business is located. There is currently no definition in the Board's rules for principal place of business and because there is no definition, registrants who request CPE reciprocity may not fully understand what principal place of business means and may request CPE reciprocity when they do not qualify. In FY 2021, the Board had 193 requests for CPE reciprocity, of which 164 or 85% were approved by the Board.

R4-1-104. The use of "C.P.A." in this rule is inconsistent with how the CPA designation is used elsewhere in the Board's legal framework.

---

<sup>3</sup> A qualitative response is offered in lieu of quantitative data if it is not available or not applicable.

R4-1-115.03. The PROAC's current authority on making recommendations to the Board regarding peer review is less clear and can be improved to better protect the confidentiality of firms recommended to the Board for initial analysis.

R4-1-345. The temporary fee reduction implemented by the Board is scheduled to expire on July 1, 2022.

R4-1-453. This rule does not currently prohibit CPAs from reusing CPE that they already took to comply with a granted CPE extension for a subsequent registration period.

R4-1-454 and R4-1-455. These two rules no longer incorporate by reference the most current versions of the peer review standards and the American Institute of Certified Public Accountants' (AICPA) Code of Professional Conduct.

- b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

R4-1-101. If the rule is not amended as proposed, some registrants may not fully understand what principal place of business means and therefore may request CPE reciprocity when they do not qualify. This would create an inconvenience for 1) the registrant who is denied CPE reciprocity, 2) the Board who would have to review the materials and make the decision to deny CPE reciprocity, and 3) the Board's staff who would have to prepare the request for the board meeting and complete any subsequent follow-up.

R4-1-104. If the rule is not amended as proposed, no harm is expected for any persons, but the Board's legal framework would be less consistent on how the term "CPA" is used.

R4-1-115.03. If the rule is not amended as proposed, PROAC's current authority may continue to be less clear, and the confidentiality of firms recommended to the Board for initial analysis may be less protected.

R4-1-345. If the rule is not amended as proposed, the Board's temporary fee reduction will expire on July 1, 2022, and biennial registration fees will resume to their normal rate.

R4-1-453. If the rule is not amended as proposed, registrants could possibly present an argument that they are permitted to reuse CPE for their current registration period that was taken for the prior registration period for which they were approved the CPE extension to meet the prior registration periods CPE requirements. This would practically mean that the registrant would take less CPE for the current reporting period than is required by the rule for all registrants which is inconsistent and unfair. Further, this may harm the public as CPE is designed to educate and keep registrants apprised of the latest developments in professional standards to better serve their clients. Such a situation also creates inequity amongst CPAs who are prohibited from reusing CPE when they are suspended for nonregistration or non-compliance with CPE requirements. The primary duty of the board is to protect the public from unlawful, incompetent, unqualified or unprofessional certified public accountants through certification, regulation and rehabilitation. CPE requirements are intended for the ongoing competency of CPAs.

R4-1-454 and R4-1-455. If the rules are not amended as proposed, the incorporations by reference would be outdated, which would negatively affect the Board's ability to protect the public, which in turn would negatively affect the public. It may also negatively registrants who would expect to conform their practices and be held accountable to current standards.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

R4-1-101. If the rule is amended as proposed, it's expected that registrants will be able to better understand whether they qualify for CPE reciprocity as they will be able to refer to a definition of "principal place of business" in this rule.

R4-1-104. If the rule is amended as proposed, the term "CPA" would be used more consistently in the Board's legal framework.

R4-1-115.03. If the rule is amended as proposed, the PROAC's authority on making recommendations to the Board would be clearer and would allow for the confidentiality of firms recommended to the Board for initial analysis to be better maintained.

R4-1-345. If the rule is amended as proposed, the Board's temporary fee reduction would be extended for another two years, which will benefit registrants and allow the Board to continue to reduce its fund balance.

R4-1-453. If the rule is amended as proposed, the Board's CPE rules would more definitively state that CPAs are unable to reuse CPE they took for a CPE extension,

which will assist in better protecting the public and ensuring equal treatment amongst CPAs.

R4-1-454 and R4-1-455. Updating the incorporations by reference for the peer review standards and the AICPA's Code of Professional Conduct will allow the Board to hold registrants accountable to the most up-to-date standards. This serves as a benefit to the Board and the public it protects.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

Amendments to R4-1-101 are expected to positively affect the Board and the regulated community by having a definition of "principal place of business" enumerated in its rule. This will provide clarity to the regulated community if they request CPE reciprocity.

Amendments to R4-1-104 are not expected to have any economic, small business, or consumer impact.

Amendments to R4-1-115.03 are expected to positively affect registrants, the Board, and its PRAOC by clarifying the Committee's authority to make advisory recommendations to the Board concerning peer review and monitor the peer review program and report to the Board on its effectiveness.

Amendments to R4-1-345 are expected to affect the Board and the regulated community. Continuing the temporary biennial registration fee reduction, which reduced the biennial registration fee from \$300.00 to \$275.00, is expected to reduce Board revenues and its fund balance. CPAs submitting biennial renewals will benefit from the reduction as well. Extending the temporary biennial registration fee reduction is expected to save the regulated

community approximately \$244,300 for fiscal years 2023 and 2024.

Amendments to R4-1-453 are expected to affect the Board, public, and the regulated community. Clarifying that registrants are unable to include CPE taken to comply with a granted CPE extension in a subsequent registration period positively affects the Board in its mission to protect the public from incompetent and unqualified CPAs, which in turn benefits the public. It also ensures equity across all CPAs in that all CPAs must adhere to the same CPE requirement whether or not they were suspended for non-registration or non-compliance with CPE or granted an extension of time to complete CPE. CPAs that attempt to use their CPE twice may be negatively impacted by this amendment if subjected to a CPA audit. That said, the Board only audits about 1.5% of all registrants.

Amendments to R4-1-454 and R4-1-455 are expected to affect the Board, consumers, and the regulated community. The Board will benefit from being able to hold registrants accountable to the most current versions of the peer review standards and the AICPA's Code of Professional Conduct, which directly ties to the Board's mission to protect the public. As this update will assist the Board in better fulfilling its mission, the public will also benefit from the more effective protection. Lastly, the regulated community will be affected by being held accountable to these more current standards as it would cause confusion to the regulated community for the Board to enforce older standards.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Monica L. Petersen, Executive Director  
Address: Board of Accountancy, 100 N. 15<sup>th</sup> Ave., Suite 165, Phoenix, AZ 85007  
Telephone: (602) 364-0870  
Fax: (602) 364-0903

E-mail: [mpetersen@azaccountancy.gov](mailto:mpetersen@azaccountancy.gov)

Website: [www.azaccountancy.gov](http://www.azaccountancy.gov)

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

R4-1-101. Amendments to this rule are expected to positively affect the regulated community and the Board. The regulated community benefits from the inclusion of a “principal place of business” definition in the rules, as CPAs who request CPE reciprocity will be able to better understand whether they qualify for CPE reciprocity<sup>4</sup>. In turn, the Board will benefit from CPAs who better understand whether they qualify for CPE reciprocity or not.

R4-1-104. Amendments to this rule are not expected to have any economic, small business, or consumer impact.

R4-1-115.03. Amendments to this rule are expected to positively affect the Board, its PROAC, and firms recommended to the Board for initial analysis by PROAC. The Board and its PROAC benefit by the clarified authority for PROAC to make advisory recommendations to the Board concerning peer review and monitor the peer review program. Regulated firms who are recommended to the Board for initial analysis by PROAC benefit from the ability of the Board and PROAC to better maintain the confidentiality associated with initial analysis.

R4-1-345. Amendments to this rule are expected to benefit the regulated community and the Board. The temporary biennial registration reduction reduces the regular biennial registration fee from \$300.00 to \$275.00 and the inactive status biennial registration fee from \$150.00 to

---

<sup>4</sup> Pursuant to A.A.C. R4-1-453(I), in order to qualify for CPE reciprocity, a registrant must:

1. Be a non-resident, and
2. Have met the CPE requirements of the jurisdiction in which the registrant’s principal place of business is located.

\$137.50. As a result of this temporary fee reduction, 4,961 CPAs with registrations due from July 1, 2020, through June 30, 2021, have saved a combined \$122,150. A similar amount of savings is expected for fiscal year 2022. Amendments to this rule to extend the temporary fee reduction are anticipated to save the regulated community approximately \$244,300 for fiscal years 2023 and 2024.

The Board would also benefit from these amendments as it would allow the Board to continue to reduce its fund balance.

R4-1-453. Amendments to this rule would affect the Board, public, and the regulated community. The Board would benefit from clarifying its rules that CPAs are unable to include CPE taken to comply with a granted CPE extension in a subsequent registration period, which assists the Board in its mission to protect the public from incompetent and unqualified CPAs, which in turn benefits the public. It also ensures equity across all CPAs in that all CPAs must adhere to the same CPE requirement whether they were suspended for non-registration or non-compliance with CPE or granted an extension of time to complete CPE. CPAs that attempt to use their CPE twice may be negatively impacted by this amendment if subjected to a CPE audit. That said, the Board only audits about 1.5% of all registrants.

R4-1-454 and R4-1-455. Amendments to these rules would affect the Board, public, and the regulated community. The Board will benefit from being able to hold registrants accountable to the most current versions of the peer review standards and the AICPA's Code of Professional Conduct, which directly ties to the Board's mission to protect the public. As this update will assist the Board in better fulfilling its mission, the public will also benefit from the more effective protection. Lastly, the regulated community will be affected by being held

accountable to these more current standards as it would cause confusion to the regulated community for the Board to enforce older standards.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

The Board is the only state agency directly affected by this rulemaking. Its effects, including costs and benefits, have been listed in Item 4 above. The Board will not require a new full-time employee to implement and enforce the rulemaking, but there will be some opportunity costs in that human resources will be tasked with the implementation of these rules rather than other Board initiatives.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

No political subdivision is directly affected by this rulemaking.

- c. Costs and benefits to businesses directly affected by the rulemaking:

Businesses that are registered with the Board as CPA firms will be directly affected by the rulemaking. Its effects, including costs and benefits, have been listed in Item 4 above. No other businesses are expected to be affected by this rulemaking.

6. Impact on private and public employment:

The Board expects the rulemaking to have no impact on private or public employment.

7. Impact on small businesses:

- a. Identification of the small business subject to the rulemaking:

Similar to Item 5.c, small businesses that are registered with the Board as CPA firms (Small Business CPA Firms) will be directly affected by the rulemaking. Its effects, including costs and benefits, have been listed in Item 4 above.

b. Administrative and other costs required for compliance with the rulemaking:

There are no additional costs required for compliance with the rulemaking.

c. Description of methods that may be used to reduce the impact on small businesses:

None.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

Private persons that are certified with the Board as a CPA will be directly affected by the rulemaking. Its effects, including costs and benefits, have been listed in Item 4 above.

The public, which includes consumers, will also be directly affected by the rulemaking. Its effects, including costs and benefits, have been listed in Item 4 above.

9. Probable effects on state revenues:

As noted in Item 4 regarding R4-1-345, the Board anticipates that an extension of the temporary fee reduction will result in reduced biennial registration revenue in the amount of approximately \$244,300 for fiscal years 2023 and 2024.

10. Less intrusive or less costly alternative methods considered:

The Board believes this is the least costly and least intrusive method. Most changes are either technical, conforming, or clarifying in nature.

11. Description of data used:

a. Data regarding effects of temporary fee reduction on state revenue

This data was obtained by determining the number of CPAs who benefited from the temporary fee reduction in fiscal year 2021. Estimates for fiscal year 2023 and 2024 assume that CPAs will benefit from similar savings in fiscal year 2022 and that the number of CPAs who/will benefit from the temporary fee reduction in fiscal years 2021 and 2022 will be approximately the same in fiscal years 2023 and 2024. The data is empirical, replicable, and testable, as the information was gathered and compiled in the course of normal business.

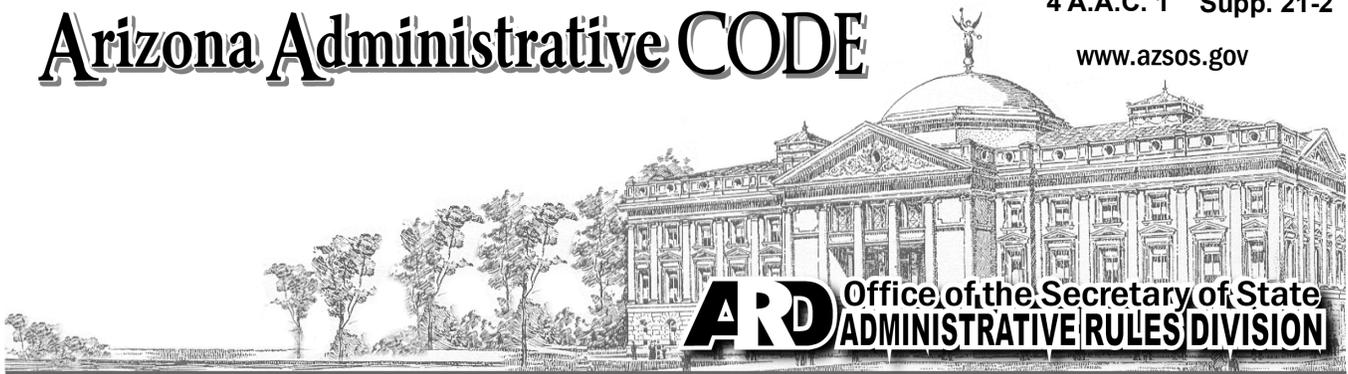
## **MATERIAL INCORPORATED BY REFERENCE**

R4-1-454(A) – Standards for Performing and Reporting on Peer Reviews

<https://www.aicpa.org/content/dam/aicpa/research/standards/peerreview/downloadabledocuments/peerreviewstandards.pdf>

R4-1-455(A) – Code of Professional Conduct

<https://pub.aicpa.org/codeofconduct/ethicsresources/et-cod.pdf>



## TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 1. BOARD OF ACCOUNTANCY

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of April 1, 2021 through June 30, 2021.

<a href="#">R4-1-104.</a>	<a href="#">Board Records; Public Access; Copying Fees ..... 3</a>	<a href="#">R4-1-346.</a>	<a href="#">Notice of Change of Address ..... 12</a>
<a href="#">R4-1-117.</a>	<a href="#">Procedure: Witnesses; Service ..... 5</a>	<a href="#">R4-1-453.</a>	<a href="#">Continuing Professional Education ..... 13</a>
<a href="#">R4-1-226.01.</a>	<a href="#">Applications; Examination - Computer-based ..... 7</a>	<a href="#">R4-1-454.</a>	<a href="#">Peer Review ..... 15</a>
<a href="#">R4-1-229.</a>	<a href="#">Conditioned Credit ..... 8</a>	<a href="#">R4-1-455.</a>	<a href="#">Professional Conduct and Standards ..... 15</a>
<a href="#">R4-1-341.</a>	<a href="#">CPA Certificates; Firm Registration; Reinstatement; Reactivation ..... 9</a>		

#### Questions about these rules? Contact:

Name: Monica L. Petersen, Executive Director  
Address: Board of Accountancy  
100 N. 15th Ave., Suite 165  
Phoenix, AZ 85007  
Telephone: (602) 364-0870  
Fax: (602) 364-0903  
E-mail: [mpetersen@azaccountancy.gov](mailto:mpetersen@azaccountancy.gov)  
Website: [www.azaccountancy.gov](http://www.azaccountancy.gov)

#### The release of this Chapter in Supp. 21-2 replaces Supp. 20-1, 1-17 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

---

### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

*Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.*



Administrative Rules Division
The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

Authority: A.R.S. § 32-701 et seq.

ARTICLE 1. GENERAL

Section
R4-1-101. Definitions ..... 3
R4-1-102. Powers of the Board: Applicability; Excuse; Extension ..... 3
R4-1-103. Repealed ..... 3
R4-1-104. Board Records; Public Access; Copying Fees ..... 3
R4-1-105. Expired ..... 4
R4-1-106. Reserved ..... 4
R4-1-107. Reserved ..... 4
R4-1-108. Reserved ..... 4
R4-1-109. Reserved ..... 4
R4-1-110. Reserved ..... 4
R4-1-111. Reserved ..... 4
R4-1-112. Reserved ..... 4
R4-1-113. Meetings ..... 4
R4-1-114. Hearing; Rehearing or Review ..... 4
R4-1-115. Accounting and Auditing and Tax Advisory Committees ..... 5
R4-1-115.01. Law Review Advisory Committee ..... 5
R4-1-115.02. Continuing Professional Education Advisory Committee ..... 5
R4-1-115.03. Peer Review Oversight Advisory Committee ..... 5
R4-1-115.04. Certification Advisory Committee ..... 5
R4-1-116. Renumbered ..... 5
R4-1-117. Procedure: Witnesses; Service ..... 5
R4-1-118. Repealed ..... 6

ARTICLE 2. CPA EXAMINATION

Section
R4-1-201. Reserved ..... 6
R4-1-202. Reserved ..... 6
R4-1-203. Reserved ..... 6
R4-1-204. Reserved ..... 6
R4-1-205. Reserved ..... 6
R4-1-206. Reserved ..... 6
R4-1-207. Reserved ..... 6
R4-1-208. Reserved ..... 6
R4-1-209. Reserved ..... 6
R4-1-210. Reserved ..... 6
R4-1-211. Reserved ..... 6
R4-1-212. Reserved ..... 6
R4-1-213. Reserved ..... 6
R4-1-214. Reserved ..... 6
R4-1-215. Reserved ..... 6
R4-1-216. Reserved ..... 7
R4-1-217. Reserved ..... 7
R4-1-218. Reserved ..... 7
R4-1-219. Reserved ..... 7
R4-1-220. Reserved ..... 7
R4-1-221. Reserved ..... 7
R4-1-222. Reserved ..... 7
R4-1-223. Reserved ..... 7
R4-1-224. Reserved ..... 7
R4-1-225. Reserved ..... 7
R4-1-226. Expired ..... 7

R4-1-226.01. Applications; Examination - Computer-based .....7
R4-1-227. Repealed .....7
R4-1-228. Denial of Examination .....8
R4-1-229. Conditioned Credit .....8
R4-1-230. Expired .....8
R4-1-231. Expired .....8

ARTICLE 3. CERTIFICATION AND REGISTRATION

Section
R4-1-301. Reserved .....8
R4-1-302. Reserved .....8
R4-1-303. Reserved .....8
R4-1-304. Reserved .....8
R4-1-305. Reserved .....8
R4-1-306. Reserved .....8
R4-1-307. Reserved .....8
R4-1-308. Reserved .....8
R4-1-309. Reserved .....8
R4-1-310. Reserved .....8
R4-1-311. Reserved .....8
R4-1-312. Reserved .....8
R4-1-313. Reserved .....8
R4-1-314. Reserved .....8
R4-1-315. Reserved .....8
R4-1-316. Reserved .....8
R4-1-317. Reserved .....8
R4-1-318. Reserved .....8
R4-1-319. Reserved .....8
R4-1-320. Reserved .....8
R4-1-321. Reserved .....8
R4-1-322. Reserved .....8
R4-1-323. Reserved .....8
R4-1-324. Reserved .....8
R4-1-325. Reserved .....8
R4-1-326. Reserved .....8
R4-1-327. Reserved .....8
R4-1-328. Reserved .....8
R4-1-329. Reserved .....9
R4-1-330. Reserved .....9
R4-1-331. Reserved .....9
R4-1-332. Reserved .....9
R4-1-333. Reserved .....9
R4-1-334. Reserved .....9
R4-1-335. Reserved .....9
R4-1-336. Reserved .....9
R4-1-337. Reserved .....9
R4-1-338. Reserved .....9
R4-1-339. Reserved .....9
R4-1-340. Reserved .....9
R4-1-341. CPA Certificates; Firm Registration; Reinstatement; Reactivation .....9
R4-1-341.01. Repealed .....11
R4-1-342. Repealed .....11
R4-1-343. Education and Accounting Experience .....11
R4-1-344. Denial of Certification, Firm Registration, or Reinstatement .....11

CHAPTER 1. BOARD OF ACCOUNTANCY

R4-1-345.	Registration; Fees .....	11	R4-1-432.	Reserved .....	13
R4-1-346.	Notice of Change of Address .....	12	R4-1-433.	Reserved .....	13
<b>ARTICLE 4. REGULATION</b>					
Section					
R4-1-401.	Reserved .....	12	R4-1-434.	Reserved .....	13
R4-1-402.	Reserved .....	12	R4-1-435.	Reserved .....	13
R4-1-403.	Reserved .....	12	R4-1-436.	Reserved .....	13
R4-1-404.	Reserved .....	12	R4-1-437.	Reserved .....	13
R4-1-405.	Reserved .....	12	R4-1-438.	Reserved .....	13
R4-1-406.	Reserved .....	12	R4-1-439.	Reserved .....	13
R4-1-407.	Reserved .....	12	R4-1-440.	Reserved .....	13
R4-1-408.	Reserved .....	12	R4-1-441.	Reserved .....	13
R4-1-409.	Reserved .....	12	R4-1-442.	Reserved .....	13
R4-1-410.	Reserved .....	12	R4-1-443.	Reserved .....	13
R4-1-411.	Reserved .....	12	R4-1-444.	Reserved .....	13
R4-1-412.	Reserved .....	12	R4-1-445.	Reserved .....	13
R4-1-413.	Reserved .....	12	R4-1-446.	Reserved .....	13
R4-1-414.	Reserved .....	12	R4-1-447.	Reserved .....	13
R4-1-415.	Reserved .....	12	R4-1-448.	Reserved .....	13
R4-1-416.	Reserved .....	12	R4-1-449.	Reserved .....	13
R4-1-417.	Reserved .....	12	R4-1-450.	Reserved .....	13
R4-1-418.	Reserved .....	12	R4-1-451.	Reserved .....	13
R4-1-419.	Reserved .....	12	R4-1-452.	Reserved .....	13
R4-1-420.	Reserved .....	12	R4-1-453.	Continuing Professional Education .....	13
R4-1-421.	Reserved .....	12	R4-1-454.	Peer Review .....	15
R4-1-422.	Reserved .....	12	R4-1-455.	Professional Conduct and Standards .....	15
R4-1-423.	Reserved .....	12	R4-1-455.01.	Professional Conduct: Definitions; Interpretations .....	15
R4-1-424.	Reserved .....	12	R4-1-455.02.	Professional Conduct: Competence and Technical Standards .....	15
R4-1-425.	Reserved .....	12	R4-1-455.03.	Professional Conduct: Specific Responsibilities and Practices .....	16
R4-1-426.	Reserved .....	12	R4-1-455.04.	Professional Conduct: Records Disposition .....	16
R4-1-427.	Reserved .....	12	R4-1-456.	Reporting Practice Suspensions and Violations ..	16
R4-1-428.	Reserved .....	12	Appendix A.	Repealed .....	17
R4-1-429.	Reserved .....	12	Appendix B.	Repealed .....	17
R4-1-430.	Reserved .....	13			
R4-1-431.	Reserved .....	13			

## CHAPTER 1. BOARD OF ACCOUNTANCY

## ARTICLE 1. GENERAL

**R4-1-101. Definitions**

- A. The definitions in A.R.S. § 32-701 apply to this Chapter.
- B. In this Chapter, unless the context otherwise requires:
1. "Contested case" means any proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
  2. "CPE" or "continuing professional education" means attending classes, writing articles, conducting or teaching courses, and taking self-study courses if the activities contribute to maintaining and improving of professional competence in accounting.
  3. "Facilitated State Board Access (FSBA)" means the sponsoring organization's process for providing the Board access to peer review results via a secured website.
  4. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
  5. "Peer review" means an assessment, conducted according to R4-1-454(A), of one or more aspects of the professional work of a firm.
  6. "Peer review program" means the sponsoring organization's entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.
  7. "Person" may include any individual, and any form of corporation, partnership, or professional limited liability company.
  8. "Sponsoring organization" means a Board-approved professional society, or other organization approved by the Board responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.
  9. "Upper level course" means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principals of accounting or similar introductory accounting courses.

**Historical Note**

Former Rule 1A; Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-01 renumbered as Section R4-1-101 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

**R4-1-102. Powers of the Board: Applicability; Excuse; Extension**

- A. This Chapter applies to all actions and proceedings of the Board and is deemed part of the record in every action or proceeding without formal introduction or reference. All parties are deemed to have knowledge of this Chapter, which the Board shall make available on the Board's website.
- B. The Board, when within the Board's jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any part of this Chapter.

- C. The Board, or in case of an emergency, the President or Executive Director, when within the Board's jurisdiction, may grant an extension of time to comply with this Chapter.

**Historical Note**

Former Rules 1B, 1C, 1D, 1E; Former Section R4-1-02 renumbered as Section R4-1-102 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-103. Repealed****Historical Note**

Former Rule 2E; Former Section R4-1-03 renumbered as Section R4-1-103 without change effective July 1, 1983 (Supp. 83-4). Repealed effective August 21, 1986 (Supp. 86-4).

**R4-1-104. Board Records; Public Access; Copying Fees**

- A. The Board shall maintain all records, subject to A.R.S. Title 39, Chapter 1, reasonably necessary or appropriate to maintain an accurate knowledge of the Board's official activities including, but not limited to:
1. Applications for C.P.A. certificates and supporting documentation and correspondence;
  2. Applications to take the Uniform Certified Public Accountant Examination;
  3. Registration for registrants;
  4. Documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; and;
  5. Investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.
- B. Any person desiring to inspect or obtain copies of records of the Board available to the public under this Section shall make a request to the Board's Executive Director or the Director's designee. The Executive Director or the director's designee shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director or the director's designee is unsure whether a record may be made available for public inspection and copying, the Executive Director or the director's designee shall refer the matter to the Board for final determination.
- C. A person shall not remove original records of the Board from the office of the Board unless the records are in the custody and control of a board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director or the director's designee may designate a staff member to observe and monitor any examination of Board records.
- D. The Board shall provide copies of all records available for public inspection and copying shall be provided according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.
- E. Any person aggrieved by a decision of the Executive Director or the director's designee denying access to records of the Board may request a hearing before the Board to review the action of the Executive Director or the director's designee by filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person requires immediate access to Board records, the person may request and may be granted an earlier hearing, if the person sets forth sufficient grounds for immediate access.

## CHAPTER 1. BOARD OF ACCOUNTANCY

**Historical Note**

Adopted effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-04 renumbered as Section R4-1-104 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**R4-1-105. Expired****Historical Note**

Adopted effective January 3, 1977 (Supp. 77-1). Former Section R4-1-05 renumbered as Section R4-1-105 and amended in subsections (C) and (D) effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section expired under A.R.S. § 41-1056(J) at 25 A.A.R. 3719, effective December 4, 2019 (Supp. 19-4).

**R4-1-106. Reserved****R4-1-107. Reserved****R4-1-108. Reserved****R4-1-109. Reserved****R4-1-110. Reserved****R4-1-111. Reserved****R4-1-112. Reserved****R4-1-113. Meetings**

The Board and Board committees shall conduct meetings in accordance with the current edition of Robert's Rules of Order if the rules are compatible with the laws of the state of Arizona or the Board's own resolutions regarding meetings.

1. Regular and special meetings of the Board for the purpose of conducting business shall be called by the President or a majority of the board members.
2. Regular and special meetings of the committees shall be called by the chairperson or a majority of the committee members.

**Historical Note**

Former Rules 2A, 2B, 2C, 2D; Former Section R4-1-13 renumbered as Section R4-1-113 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-114. Hearing; Rehearing or Review**

**A.** Hearing: The Board or an Administrative Law Judge (ALJ) employed by the Office of Administrative Hearings (OAH) shall hear all contested cases and appealable agency actions. The Board shall conduct hearings according to the provisions of A.R.S. Title 41, Chapter 6, Article 10 as supplemented by R4-1-117. The OAH shall conduct hearings according to A.R.S. Title 41, Chapter 6, Article 10 and the rules and procedures established by the OAH. To the extent that there is no conflict with A.R.S. Title 41, Chapter 6, Article 10, the provisions of A.R.S. § 32-743 apply to hearings conducted by the Board and the OAH. The following subsections apply to hear-

ings conducted by the Board and hearings conducted by the OAH where applicable.

1. Power to join any interested party: Any board member or the ALJ may join as a party applicant or as a party defendant, any person, firm or corporation, that appears to have an interest in the matter before the Board.
  2. Stipulation at hearing: The parties may stipulate to facts that are not in dispute. The stipulation may be in writing or may be made orally by reading the stipulation into the record at the hearing. The stipulation is binding upon the parties unless the Board or the ALJ grants permission to withdraw from the stipulation. The Board or the ALJ may set aside any stipulation.
  3. Settlements and consent orders: At any time before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of conditional settlement to avoid formal disciplinary proceedings by the Board. In the offer of conditional settlement, the registrant shall agree to take specific remedial steps such as enrolling in CPE courses, limiting the scope of the registrant's practice, accepting limitation on the filing of public reports, and submitting the registrant's work product for peer review. If the Board determines that the proposed conditional settlement will protect the public safety and welfare and is more likely to rehabilitate or educate the registrant than formal disciplinary action under A.R.S. § 32-741, the Board may accept the offer and enter an order that incorporates the registrant's proposed conditional settlement and to which the registrant consents. A consent order issued under this subsection shall provide that, upon successful compliance by the registrant with all provisions of the order, the disciplinary proceedings shall be terminated and any notice of hearing previously issued shall be vacated. The consent order shall further provide that, upon failure of the registrant to comply with all provisions of the order, or upon the discovery of material facts unknown to the Board at the time the Board issued the order, formal disciplinary proceedings against the registrant may be instituted or resumed. The consent order additionally may provide that, upon failure of the registrant to comply with all provisions of the order, the Board may immediately and summarily suspend the registrant's certificate for not more than one year. Within 30 days after the summary suspension, the registrant may request a hearing solely concerning the issue of compliance with the consent order.
  4. Decisions and orders: The Board shall make all decisions and orders by a majority vote of the members considering the case. The Board shall issue a final written decision in a contested case or state the decision on the record. The decision shall state separately the findings of fact and conclusions of law on which the decision is based, and the Board's order to implement the decision. All written decisions and orders of the Board shall be signed by the President or Secretary of the Board. When the Board suspends or revokes the certificate of a registrant, the Board may order the registrant to return the registrant's certificate within 30 days after receipt of the order. The Board shall serve each party, each attorney of record, and the Attorney General with a copy of each decision or order of the Board, as provided in R4-1-117.
- B.** ALJ: In hearings conducted by the OAH, the ALJ shall provide the Board with written findings of fact, conclusions of law, and a recommended order within 20 days after the conclusion of the hearing or as otherwise provided by A.R.S. Title

## CHAPTER 1. BOARD OF ACCOUNTANCY

41, Chapter 6, Article 10. The Board's decision approving or modifying the ALJ's recommendations is the final decision of the Board, subject to the filing of a motion for rehearing or review as provided in subsection (C).

- C. Rehearing or Review: Any party aggrieved by a decision of the Board may file with the Board a written motion for rehearing or review within 30 days after service of the decision specifying the particular grounds for the motion. The Attorney General may file a response to the motion for rehearing within 15 days after service of the motion. The Board may require the filing of written briefs upon issues raised in the motion for rehearing or review and provide for oral argument. Upon review of the documents submitted, the Board may modify the decision or vacate it and grant a rehearing for any of the following causes materially affecting a party's rights:
1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived a party of a fair hearing;
  2. Misconduct of the Board or the ALJ;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence, that could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or during the progress of the proceeding; or
  7. That the findings of fact or decision is not justified by the evidence or is contrary to law.

**Historical Note**

Former Rules 5A, 5B, 5C; Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-14 renumbered as Section R4-1-114 without change effective July 1, 1983 (Supp. 83-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-115. Accounting and Auditing and Tax Advisory Committees**

- A. The Board may appoint advisory committees concerning accounting reports, taxation and other areas of public accounting as the Board deems appropriate. The committees shall evaluate investigation files referred by the Board, hold voluntary informal interviews and make advisory recommendations to the Board concerning settlement, dismissal or other disposition of the reviewed matter.
- B. The Board, in its discretion, may accept, reject, or modify the recommendation of the advisory committee.

**Historical Note**

Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-115.01. Law Review Advisory Committee**

- A. The Board may appoint an advisory committee to assist in the evaluation of statutory and regulatory provisions. The committee shall make advisory recommendations to the Board.
- B. The Board, in its discretion, may accept, reject, or modify the recommendations of the advisory committee.

**Historical Note**

Adopted effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-115.02. Continuing Professional Education Advisory Committee**

- A. The Board may appoint an advisory committee to assist in the evaluation of CPE. The committee shall make advisory recommendations to the Board concerning the following:
1. CPE programs;
  2. A registrant's satisfaction of CPE requirements; and
  3. A registrant's compliance with disciplinary orders requiring CPE.
- B. The Board, in its discretion, may accept, reject, or modify the recommendations of the advisory committee.

**Historical Note**

Adopted effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-115.03. Peer Review Oversight Advisory Committee**

- A. The Board may appoint an advisory committee to monitor and conduct the peer review program. Upon appointment the committee shall:
1. Advise the Board on matters relating to the peer review program;
  2. Report to the Board on effectiveness of the peer review program;
  3. Make a recommendation to the Board to direct an authorized committee to conduct an initial analysis.
- B. The Board may accept, reject, or modify recommendations of the Peer Review Oversight Advisory Committee.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004 (04-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

**R4-1-115.04. Certification Advisory Committee**

- A. The Board may appoint an advisory committee to assist in the evaluation of applicants for the Uniform Certified Public Accountant Examination and for certified public accountant. The committee shall review applications, transcripts, and related materials, and make advisory recommendations to the Board concerning the qualifications of applicants for the Uniform Certified Public Accountant Examination and for certification of certified public accountants.
- B. The Board, in its discretion, may accept, reject, or modify the advisory recommendation in determining the qualifications of applicants.

**Historical Note**

New Section R4-1-115.04 renumbered from R4-1-116 and amended by final rulemaking, effective February 4, 2014 (Supp. 14-1).

**R4-1-116. Renumbered****Historical Note**

Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Section R4-1-116 renumbered to R4-1-115.04 by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-117. Procedure: Witnesses; Service**

## CHAPTER 1. BOARD OF ACCOUNTANCY

- A. Pleadings; depositions; briefs; and related documents. A party shall print or type all pleadings, depositions, briefs, and related documents and use only one side of the paper.
- B. Witness' depositions. If a party wants to take the oral deposition of a witness residing outside the state, the party shall file with the Board a petition for permission to take the deposition stating the name and address of the witness and describing in detail the nature and substance of the testimony expected to be given by the witness. The petition may be denied if the testimony of the witness is not relevant and material. If the petition is granted, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure. The party applying to the Board for permission to take a deposition shall bear the expense of the deposition.
- C. Witness' interrogatories. A party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board a copy of the interrogatories and a statement showing the name and address of the witness. The adverse party may file in duplicate cross-interrogatories with a copy of the statement within 10 days following service on the adverse party. A party that objects to the form of an interrogatory or cross-interrogatory may file a statement of the objection with the Board within five days after service of the interrogatories or cross-interrogatories and may suggest to the Board any amendment to an interrogatory or cross-interrogatory. The Board may amend, add, or strike out an interrogatory or cross-interrogatory when the Board determines it is proper to do so.
1. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require that the information be provided through written interrogatories and vice versa.
  2. A party shall provide a copy of answers to the interrogatories to the Board within 45 days after the interrogatories are answered.
- D. Subpoenas. The Board officer presiding at a hearing may authorize subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall administer oaths. A party desiring the Board to issue a subpoena for the production of evidence, documents or to compel the appearance of a witness at a hearing shall apply for the subpoena in writing stating the substance of the witness's testimony. If the testimony appears to be relevant and material, the Board shall issue the subpoena. Affixing the seal of the Board and the signature of a Board officer is sufficient to show that the subpoena is genuine. The party applying for the subpoena shall bear the expense of service.
- E. Service.
1. Service of any decision, order, subpoena, notice, or other document may be made personally in the same manner as a summons served in a civil action. If a document is served personally, service is deemed complete at the time of delivery.
  2. Except as provided in subsection (E)(3), service of any document may also be made by:
    - a. Personal service.
    - b. By enclosing a copy of the document in a sealed envelope and depositing the envelope in the United States mail, with first-class postage prepaid, addressed to the party, at the address last provided to the Board.
      - i. Service by mail is deemed complete when the document to be served is deposited in the United States mail. If the distance between the place of mailing and the place of address is more than 100 miles, service is deemed complete one day after the deposit of the document for each 100 miles to a maximum of six days after the date of mailing.
      - ii. In computing time, the date of mailing is not counted. All intermediate Sundays and holidays are counted. If the last day falls on a Sunday or holiday, that day is not counted and service is considered completed on the next business day.
      - c. By attaching the document to an email and sending it to the email address last provided to the Board.
3. The Board shall mail each notice of hearing and final decision by certified mail to the last known address reflected in the records of the Board.
  4. Service on attorney. Service on an attorney who has appeared for a party constitutes service on the party.
  5. Proof of service. A party shall demonstrate proof of service by filing an affidavit, as provided by law, proof of mailing by certified mail, or an affidavit of first-class mailing.
- Historical Note**
- Former Rules 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D; Amended effective January 3, 1977 (Supp. 77-1). Former Section R4-1-15 renumbered as Section R4-1-117 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).
- R4-1-118. Repealed**
- Historical Note**
- Former Rule 8; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-16 renumbered as Section R4-1-118 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 1, 1995 (Supp. 95-4). Repealed by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).
- ARTICLE 2. CPA EXAMINATION**
- R4-1-201. Reserved**
- R4-1-202. Reserved**
- R4-1-203. Reserved**
- R4-1-204. Reserved**
- R4-1-205. Reserved**
- R4-1-206. Reserved**
- R4-1-207. Reserved**
- R4-1-208. Reserved**
- R4-1-209. Reserved**
- R4-1-210. Reserved**
- R4-1-211. Reserved**
- R4-1-212. Reserved**
- R4-1-213. Reserved**
- R4-1-214. Reserved**
- R4-1-215. Reserved**

## CHAPTER 1. BOARD OF ACCOUNTANCY

R4-1-216.	Reserved
R4-1-217.	Reserved
R4-1-218.	Reserved
R4-1-219.	Reserved
R4-1-220.	Reserved
R4-1-221.	Reserved
R4-1-222.	Reserved
R4-1-223.	Reserved
R4-1-224.	Reserved
R4-1-225.	Reserved
R4-1-226.	Expired

**Historical Note**

Former Rules 6A, 6B, 6C; Amended effective January 15, 1976 (Supp. 76-1). Amended effective December 1, 1976 (Supp. 76-5). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-26 renumbered as Section R4-1-226 and amended in subsections (B) and (C) effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended subsection (C) effective May 25, 1989 (Supp. 89-2). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 4575, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4815, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 372, effective December 31, 2008 (Supp. 09-1).

**R4-1-226.01. Applications; Examination - Computer-based**

A. A person desiring to take the Uniform Certified Public Accountant Examination who is qualified under A.R.S. § 32-723 may apply by submitting an initial application. A person whose initial application has already been approved by the Board to sit for the Uniform CPA Examination may apply by submitting an application for re-examination.

1. The requirements for initial application for examination are:
  - a. A completed application for initial examination,
  - b. A \$100 initial application fee if:
    - i. The applicant has not previously filed an application for initial examination in Arizona, or
    - ii. The Board administratively closed a previously submitted application, or
    - iii. The applicant has been previously denied by the Board.
  - c. University or college transcripts to verify that the applicant meets the educational requirements and if necessary for education taken outside the United States an additional course-by-course evaluation from the National Association of State Boards of Accountancy International Evaluation Services (NIES).
  - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
2. The requirements for application for re-examination are:

- a. A completed application for re-examination, and
  - b. A \$50 re-examination application fee.
- B. Within 30 days of receiving an initial application, the Board shall provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing. The applicant has 30 days from the date of the Board's letter to respond to the Board's request for additional information or the Board or its designee may administratively close the file. An applicant whose file is administratively closed and who later wishes to apply shall reapply under subsection (A)(1).
  - C. The Board's certification advisory committee (CAC) shall evaluate the applicant's file and make a recommendation to the Board to approve or deny the application. The CAC may defer a decision on the applicant's file to a subsequent CAC meeting to provide the applicant opportunity to submit any information requested by written notice by the CAC that the CAC believes is relevant to make a recommendation to the Board. The applicant has 30 days from the date of the Board's letter to respond to the CAC's request for additional information or the Board or its designee may administratively close the file.
  - D. If the Board approves the application, the Board shall notify the applicant in writing and send an authorization to test (ATT) to the National Association of State Boards of Accountancy (NASBA) to permit the applicant to take the specified section or sections of the examination for which the applicant applied. If the Board denies the application, the Board shall send the applicant written notice explaining:
    1. The reason for denial, with citations to supporting statutes or rules;
    2. The applicant's right to seek a fair hearing to challenge the denial; and
    3. The time periods for appealing the denial.
  - E. If the applicant does not timely pay to the NASBA the fees owed for the examination section or sections for which the applicant applied, the ATT expires. An applicant that still wishes to take a section or sections of the Uniform CPA Examination shall submit an application for re-examination under subsection (A)(2).
  - F. After an applicant has paid NASBA, NASBA shall issue a notice to schedule (NTS) to the applicant. A NTS enables an applicant to schedule testing at an approved examination center. The NTS is effective on the date of issuance and expires when the applicant sits for all sections listed on the NTS or six months from the date of issuance, whichever occurs first. Upon written request to the Board and showing good cause that prevents the applicant from appearing for the examination, an applicant may be granted by the Board a 90-day extension to a current NTS.
  - G. The Board shall send the applicant any written notice required by this Section in accordance with R4-1-117(E)(1) or (2).

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**R4-1-227. Repealed****Historical Note**

Former Rule 6D; Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-27 renumbered and

## CHAPTER 1. BOARD OF ACCOUNTANCY

amended as Section R4-1-227 effective July 1, 1983 (Supp. 83-4). Section R4-1-227 repealed effective November 20, 1998 (Supp. 98-4).

**R4-1-228. Denial of Examination**

An applicant whose application for examination is denied by the Board is entitled to a hearing before the Board or an ALJ.

1. Written application. The applicant shall file a notice of appeal under A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice. The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing. The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of persuasion. At the hearing, the applicant is the moving party and has the burden of persuasion.
5. Matters limited. At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

**Historical Note**

Former Rules 6E, 6F; Former Section R4-1-28 renumbered as Section R4-1-228 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section repealed; new Section made by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

**R4-1-229. Conditioned Credit**

- A. An applicant is allowed to sit for each section individually and in any order. An applicant is given conditioned credit for each section of the examination passed. A conditioned credit is valid for 18 months from the date of the examination. Upon written request to the Board and showing good cause, an applicant may be granted by the Board a 90-day extension to a conditioned credit.
- B. Transfer of conditioned credit. The Board shall give an applicant credit for all sections of an examination passed in another jurisdiction if the credit has been conditioned. If an applicant transfers conditioned credit from another jurisdiction, the applicant shall pass the remaining sections of the examination within the 18-month period from the date that the first section was passed. An applicant who fails to pass all sections of the Uniform CPA Examination within 18 months shall retake previously passed sections of the Uniform CPA Examination to ensure passage of all sections within an 18-month period.

**Historical Note**

Former Rules 6G, 6H; Former Section R4-1-29 renumbered as Section R4-1-229 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Section repealed, new Section adopted effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section repealed; New Section made by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**R4-1-230. Expired****Historical Note**

Former Rule 6I; Former Section R4-1-30 renumbered as Section R4-1-230 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 372, effective December 31, 2008 (Supp. 09-1).

**R4-1-231. Expired****Historical Note**

Former Rule 6J; Former Section R4-1-31 renumbered as Section R4-1-231 without change effective July 1, 1983 (Supp. 83-4). Section repealed, new Section adopted effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 419, effective December 31, 2003 (Supp. 04-1).

**ARTICLE 3. CERTIFICATION AND REGISTRATION**

- |                  |                 |
|------------------|-----------------|
| <b>R4-1-301.</b> | <b>Reserved</b> |
| <b>R4-1-302.</b> | <b>Reserved</b> |
| <b>R4-1-303.</b> | <b>Reserved</b> |
| <b>R4-1-304.</b> | <b>Reserved</b> |
| <b>R4-1-305.</b> | <b>Reserved</b> |
| <b>R4-1-306.</b> | <b>Reserved</b> |
| <b>R4-1-307.</b> | <b>Reserved</b> |
| <b>R4-1-308.</b> | <b>Reserved</b> |
| <b>R4-1-309.</b> | <b>Reserved</b> |
| <b>R4-1-310.</b> | <b>Reserved</b> |
| <b>R4-1-311.</b> | <b>Reserved</b> |
| <b>R4-1-312.</b> | <b>Reserved</b> |
| <b>R4-1-313.</b> | <b>Reserved</b> |
| <b>R4-1-314.</b> | <b>Reserved</b> |
| <b>R4-1-315.</b> | <b>Reserved</b> |
| <b>R4-1-316.</b> | <b>Reserved</b> |
| <b>R4-1-317.</b> | <b>Reserved</b> |
| <b>R4-1-318.</b> | <b>Reserved</b> |
| <b>R4-1-319.</b> | <b>Reserved</b> |
| <b>R4-1-320.</b> | <b>Reserved</b> |
| <b>R4-1-321.</b> | <b>Reserved</b> |
| <b>R4-1-322.</b> | <b>Reserved</b> |
| <b>R4-1-323.</b> | <b>Reserved</b> |
| <b>R4-1-324.</b> | <b>Reserved</b> |
| <b>R4-1-325.</b> | <b>Reserved</b> |
| <b>R4-1-326.</b> | <b>Reserved</b> |
| <b>R4-1-327.</b> | <b>Reserved</b> |
| <b>R4-1-328.</b> | <b>Reserved</b> |
| <b>R4-1-329.</b> | <b>Reserved</b> |

## CHAPTER 1. BOARD OF ACCOUNTANCY

- R4-1-330. Reserved** National Association of State Boards of Accountancy that has been adopted by the Board,
- R4-1-331. Reserved** c. Evidence of lawful presence in the United States, and
- R4-1-332. Reserved** d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
- R4-1-333. Reserved**
- R4-1-334. Reserved**
- R4-1-335. Reserved** 5. For an applicant applying for certification under A.R.S. § 32-4302, a completed application including:
- R4-1-336. Reserved** a. License verification from each jurisdiction in which the applicant holds a license;
- R4-1-337. Reserved** b. Evidence of lawful presence in the United States;
- R4-1-338. Reserved** c. Proof of residency;
- R4-1-339. Reserved** d. Disciplinary history, if applicable;
- R4-1-340. Reserved** e. Other information or documents requested by the Board to determine compliance with eligibility requirements.
- R4-1-341. CPA Certificates; Firm Registration; Reinstatement; Reactivation** 6. For an applicant applying for reinstatement from cancelled status under A.R.S. § 32-732(B) a completed application including:
- A.** An applicant may apply for a certificate of certified public accountant or for reinstatement of a certificate by submitting:
1. An application fee of \$100; and
  2. For an applicant applying for certification under A.R.S. § 32-721(A) and (B), a completed application including:
    - a. Verification that the applicant passed the Uniform CPA Examination,
    - b. Verification that the applicant meets the education and experience requirements specified in R4-1-343,
    - c. One signed and dated letter of recommendation by a CPA or an individual who has accounting education and experience similar to that of a CPA,
    - d. Proof of a score of at least 90% on the American Institute of Certified Public Accountants (AICPA) examination in professional ethics taken within the two years immediately before the application is submitted,
    - e. Evidence of lawful presence in the United States, and
    - f. Other information or documents requested by the Board to determine compliance with eligibility requirements.
  3. For an applicant applying for certification under A.R.S. § 32-721(A) and (C), a completed application including:
    - a. Verification that the applicant has passed the International Qualification Examination (IQEX),
    - b. License verification from each jurisdiction in which the applicant has ever been issued a certificate as a certified public accountant of which at least one must be an active certification from a jurisdiction with requirements determined by the Board to be substantially equivalent to the requirements in A.R.S. § 32-721(B) or verification that the applicant meets the education and experience requirements specified in R4-1-343,
    - c. Evidence of lawful presence in the United States, and
    - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
  4. For an applicant applying for certification under A.R.S. § 32-721(A) and (D) for mutual recognition agreements adopted by the Board a completed application including:
    - a. Verification that the applicant has passed the International Qualification Examination (IQEX),
    - b. License verification from the applicant's country which has a mutual recognition agreement with the
- B.** An applicant may apply for a certified public accountant firm registration or for reinstatement of a registration by submitting:
1. For an applicant applying for a new firm under A.R.S. § 32-731, a completed application including:
    - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
    - b. If applicable, peer review results as prescribed by R4-1-454(A); and
    - c. Other information or documents requested by the Board to determine compliance with eligibility requirements.
  2. For an applicant applying for reinstatement from cancelled under A.R.S. § 32-732(E) a completed application including:
    - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited
7. For an applicant applying for reinstatement from expired, relinquished, or revoked status under A.R.S. § 32-732(C), a completed application including:
- a. CPE that meets the requirements of R4-1-453(C)(8) and (E), and
  - b. Evidence of lawful presence in the United States.

## CHAPTER 1. BOARD OF ACCOUNTANCY

- liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
- b. If applicable, peer review results as prescribed by R4-1-454(A); and
  - c. Other information or documents requested by the Board to determine compliance with eligibility requirements.
3. For an applicant applying for reinstatement from expired, relinquished, or revoked status under A.R.S. § 32-732(F) a completed application including:
    - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
    - b. If applicable, peer review results as prescribed by R4-1-454(A);
    - c. If applicable, substantial evidence that the applicant has been completely rehabilitated with respect to the conduct that was the basis of the expiration, relinquishment or revocation of the firm's registration; and
    - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
- C. Pursuant to Title 41, Chapter 6, Article 7.1, the Board's licensing time frames are as follows:
1. Certification/Reinstatement/Reactivation
    - a. Administrative Completeness Review Time Frame. The Board shall notify the applicant within 30 days from the receipt of the application that the application is complete.
      - i. If the application is incomplete, an incomplete notice shall specify what information is missing. If the Board issues an incomplete notice, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date the Board receives the missing information from the applicant.
      - ii. The applicant has 30 days from the date of the incomplete notice to respond in writing and provide all the missing information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (A).
    - b. Substantive Review Time Frame. The Board has 60 days to complete its substantive review.
      - i. If the Board finds deficiencies during the substantive review of the application, the Board may issue one comprehensive written request to the applicant for additional information. If the Board issues a comprehensive written request, or a supplemental request by mutual agreement, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date the Board receives the additional information from the applicant.
      - ii. The applicant has 30 days from the date of the written request to respond in writing and provide all the additional information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (B).
- may administratively close. An applicant whose file is administratively closed shall reapply under subsection (A).
- c. Overall Time Frame. The Board has 150 days to issue a written notice to an applicant approving or denying an application.
2. Firm Registration
    - a. Administrative Completeness Review Time Frame. The Board shall notify the applicant within 10 days from the receipt of the application that the application is complete.
      - i. If the application is incomplete, an incomplete notice shall specify what information is missing. If the Board issues an incomplete notice, the administrative completeness time frame and the overall time frame are suspended from the date the notice issued until the date the Board receives the missing information from the applicant.
      - ii. The applicant has 30 days from the date of the incomplete notice to respond in writing and provide all the missing information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (B).
    - b. Substantive Review Time Frame. The Board has 60 days to complete its substantive review.
      - i. If the Board finds deficiencies during the substantive review of the application, the Board may issue one comprehensive written request to the applicant for additional information. If the Board issues a comprehensive written request, or a supplemental request by mutual agreement, the substantive time frame and the overall time frame are suspended from the date the request is issued until the date the Board receives the additional information from the applicant.
      - ii. The applicant has 30 days from the date of the written request to respond in writing and provide all the additional information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (B).
    - c. Overall Time Frame. The Board has 90 days to issue a written notice to an applicant approving or denying an application.
- D. If the Board denies an applicant's request under this Section, the Board shall send the applicant written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
  2. The applicant's right to seek a fair hearing to challenge the denial; and
  3. The time periods for appealing the denial.
- E. The Board shall send the applicant any written notice required by this Section in accordance with R4-1-117(E)(1) or (2).

**Historical Note**

Former Rule 7A; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-41 renumbered as Section R4-1-341 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective September 24, 1997 (Supp. 97-3). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007

## CHAPTER 1. BOARD OF ACCOUNTANCY

(Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**R4-1-341.01. Repealed****Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). Amended effective September 24, 1997 (Supp. 97-3). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2).

**R4-1-342. Repealed****Historical Note**

Former Rule 7B; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-42 renumbered as Section R4-1-342 without change effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective September 24, 1997 (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Repealed by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

**R4-1-343. Education and Accounting Experience**

- A.** To demonstrate compliance with the experience requirements of A.R.S. § 32-721(B), an applicant for certification by examination or grade transfer shall submit to the Board:
1. One or more certificates of experience, completed, signed and dated by an individual who:
    - a. Possesses personal knowledge of the applicant's work, and
    - b. Is able to confirm the applicant's accounting experience, and
    - c. Is a certified public accountant; or
    - d. Has accounting education and experience similar to that of a certified public accountant; and
  2. Other information requested by the Board for explanation or clarification of experience.
- B.** To demonstrate compliance with the experience requirements of A.R.S. § 32-721(C), an applicant for certification by reciprocity shall submit to the Board:
1. One or more certificates of experience, completed, signed and dated by an individual who:
    - a. Possesses personal knowledge of the applicant's work, and
    - b. Is able to confirm the applicant's accounting experience, and
    - c. Is a certified public accountant; or
    - d. Has accounting education and experience similar to that of a certified public accountant; or
  2. If the applicant is self-employed, the applicant shall provide a signed and dated statement indicating self-employment and three signed and dated client letters, confirming years of work experience, and
  3. Other information requested by the Board for explanation or clarification of experience.

- C.** To demonstrate compliance with the education requirements of Title 32, Chapter 6, an applicant for certification or reinstatement shall submit to the Board:
1. University or college transcripts verifying that the applicant meets the educational requirements and if necessary for education taken outside the United States, an additional course-by-course evaluation from the National Association of State Boards of Accountancy International Evaluation Services (NIES), and
  2. Other information requested by the Board for explanation or clarification of education.

**Historical Note**

Former Rule 7C; Former Section R4-1-43 repealed, new Section R4-1-43 adopted effective February 22, 1978 (Supp. 78-1). Former Section R4-1-43 renumbered as Section R4-1-343 without change effective July 1, 1983 (Supp. 83-4). Amended effective May 31, 1991 (Supp. 91-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4).

**R4-1-344. Denial of Certification, Firm Registration, or Reinstatement**

An applicant whose application for certification, firm registration, or reinstatement of a certificate or registration is denied by the Board is entitled to a hearing before the Board or an ALJ.

1. Written application. The applicant shall file a notice of appeal under A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice. The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing. The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of persuasion. At the hearing, the applicant is the moving party and has the burden of persuasion.
5. Matters limited. At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

**Historical Note**

Former Rule 7D; Former Section R4-1-44 renumbered as Section R4-1-344 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

**R4-1-345. Registration; Fees**

- A.** Initial registration: After the Board approves an applicant's request for certification or firm registration, the registrant shall file a registration in a format prescribed by the Board and pay a registration fee under subsection (C).
- B.** Renewal registration: A registrant shall file an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board's office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:

CHAPTER 1. BOARD OF ACCOUNTANCY

- 1. Individual registrant: An individual registrant shall renew registration at the following times:
  - a. A registrant born in an even-numbered year shall renew registration during the month of birth in each even-numbered year.
  - b. A registrant born in an odd-numbered year shall renew registration during the month of birth in each odd-numbered year.
- 2. Firm registrant: A firm shall renew registration at the following times:
  - a. A business organization firm that initially registered with the Board in an even-numbered year shall renew registration during the board-approved month of the initial registration in each even-numbered year.
  - b. A business organization firm that initially registered with the Board in an odd-numbered year shall renew registration during the board-approved month of the initial registration in each odd-numbered year.
  - c. An individual or a sole proprietorship firm shall renew its registration according to subsection (B)(1).
- C. Registration fees:
  - 1. Initial Registration Fee –
    - a. Certification - \$300 and, if applicable, a late fee of \$50.
    - b. The registration fee shall be prorated by month for an initial registration period of less than two years.
  - 2. Biennial Registration Fee –
    - a. Certification – \$300 and, if applicable, a late fee of \$50.
      - i. For registrations due during the period from July 1, 2020 to June 30, 2022, the biennial registration fee will be reduced temporarily to \$275.
      - ii. For registrations due beginning July 1, 2022, the biennial registration fee will revert to \$300.
    - b. Firm Registration - \$300 and, if applicable, a late fee of \$50. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.

**Historical Note**

Former Rule 7F; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-55 renumbered and amended as Section R4-1-346 effective July 1, 1983 (Supp. 83-4). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**ARTICLE 4. REGULATION**

- R4-1-401. Reserved
- R4-1-402. Reserved
- R4-1-403. Reserved
- R4-1-404. Reserved
- R4-1-405. Reserved
- R4-1-406. Reserved
- R4-1-407. Reserved
- R4-1-408. Reserved
- R4-1-409. Reserved
- R4-1-410. Reserved
- R4-1-411. Reserved
- R4-1-412. Reserved
- R4-1-413. Reserved
- R4-1-414. Reserved
- R4-1-415. Reserved
- R4-1-416. Reserved
- R4-1-417. Reserved
- R4-1-418. Reserved
- R4-1-419. Reserved
- R4-1-420. Reserved
- R4-1-421. Reserved
- R4-1-422. Reserved
- R4-1-423. Reserved
- R4-1-424. Reserved
- R4-1-425. Reserved
- R4-1-426. Reserved
- R4-1-427. Reserved
- R4-1-428. Reserved
- R4-1-429. Reserved
- R4-1-430. Reserved
- R4-1-431. Reserved

**Historical Note**

Former Rule 7E; Amended effective December 1, 1976 (Supp. 76-5). Amended effective February 22, 1978 (Supp. 78-1). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-54 renumbered and amended as Section R4-1-345 effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective July 1, 1991; filed May 2, 1991 (Supp. 91-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 4575, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4815, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

**R4-1-346. Notice of Change of Address**

Within 30 days of any email, business, mailing, or residential change of address, a registrant shall notify the Board of the new address by filling out the change of address form prescribed by the Board.

## CHAPTER 1. BOARD OF ACCOUNTANCY

- R4-1-432. Reserved
- R4-1-433. Reserved
- R4-1-434. Reserved
- R4-1-435. Reserved
- R4-1-436. Reserved
- R4-1-437. Reserved
- R4-1-438. Reserved
- R4-1-439. Reserved
- R4-1-440. Reserved
- R4-1-441. Reserved
- R4-1-442. Reserved
- R4-1-443. Reserved
- R4-1-444. Reserved
- R4-1-445. Reserved
- R4-1-446. Reserved
- R4-1-447. Reserved
- R4-1-448. Reserved
- R4-1-449. Reserved
- R4-1-450. Reserved
- R4-1-451. Reserved
- R4-1-452. Reserved
- R4-1-452. Reserved
- R4-1-453. Continuing Professional Education**
- A. Measurement Standards.** The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.
1. CPE credit shall be given in one-fifth or one-half increments for periods of not less than one class hour except as noted in subsection (A)(8). The computation of CPE credit shall be measured as follows:
    - a. A class hour shall consist of a minimum of 50 continuous minutes of instruction;
    - b. A half-class hour shall consist of a minimum of 25 continuous minutes of instruction;
    - c. A one-fifth class hour shall consist of a minimum of 10 continuous minutes of instruction.
  2. Courses taken at colleges and universities apply toward the CPE requirement as follows:
    - a. Each semester - system credit hour is worth 15 CPE credit hours;
    - b. Each quarter - system credit hour is worth 10 CPE credit hours; and
    - c. Each noncredit class hour is worth one CPE credit hour.
  3. Each correspondence program hour is worth one CPE credit hour.
  4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and shall allow CPE credit for preparation time that is less than or equal to the presentation hours. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.
5. The following may be counted for a maximum of 20 hours of CPE credit during each renewal period.
    - a. Credit may be earned for writing and publishing articles or books that contribute to the accounting profession and is published by a recognized third-party publisher of accounting material or a sponsor as long as it is not used in conjunction with a seminar.
    - b. Credit may be earned for the writing or development of online course curriculum for undergraduate, graduate, or doctoral education that contribute to the accounting profession.
    - c. Two credit hours will be given for each 3,000 words of original material written or developed into curriculum. Materials must be at least 3,000 words in length. Multiple authors may share credit for material written or developed into curriculum.
  6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (A)(4) and (5) during each renewal period.
  7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as consulting services pursuant to subsection (C).
  8. A registrant may earn a maximum of 4 hours of CPE during each renewal period by completing nano-learning courses. A nano-learning program is a tutorial program designed to permit a participant to learn a given subject in a ten-minute time-frame through the use of electronic media and without interaction with a real time instructor.
  9. CPE credit shall be given in one-fifth or one-half hour increments if the CPE is a segment of a continuing series related to a specific subject as long as the segments are connected by an overarching course that is a minimum of one hour and taken within the same CPE reporting period.
  10. Credit shall not be allowed for repeat participation in any seminar or course during the registration period.
- B. Programs that Qualify.** CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.
1. The Board shall accept a CPE course as qualified if it:
    - a. Is developed by persons knowledgeable and experienced in the subject matter,
    - b. Provides written outlines or full text,
    - c. Is administered by an instructor or organization knowledgeable in the program, and
    - d. Uses teaching methods consistent with the study program.
  2. The Board shall accept a correspondence program which includes online or computer based programs if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
  3. An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection (C)(4).
- C. Hour Requirement.** As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-732(A), a registrant shall complete the

## CHAPTER 1. BOARD OF ACCOUNTANCY

CPE requirements during the two-year period immediately before registration or application respectively as specified under subsections (C)(1) through (5). For registration periods of less than two years CPE may be prorated by quarter, with the exception of ethics.

1. A registrant whose last registration period was for two years shall complete 80 hours of CPE.
2. A registrant shall complete a minimum of 40 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation.
3. A registrant shall complete a minimum of 16 of the required hours:
  - a. In a classroom setting,
  - b. Through an interactive live webinar, or
  - c. By acting as a lecturer or discussion leader in a CPE program, including college courses.
4. A registrant shall complete four hours of CPE in the subject area of ethics. The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
  - a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants, and
  - b. Board statutes and administrative rules.
5. A registrant shall report, at a minimum, the CPE hours required for the registration period.
6. Hours that exceed the number required for the current registration period may not be carried forward to a subsequent registration period.
7. Any CPE hours completed to vacate a suspension for nonregistration or for noncompliance with CPE requirements may not be used to meet CPE requirements for the registration period.
8. As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, a registrant or an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated by quarter, with the exception of ethics.
  - a. A registrant or an applicant shall complete a minimum of 80 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
  - b. A registrant or an applicant shall complete a minimum of 32 hours of the required hours:
    - i. In a classroom setting,
    - ii. Through an interactive live webinar, or
    - iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.
  - c. A registrant or an applicant shall complete CPE in the subject area of ethics. Four hours of ethics CPE shall be required if 1 – 24 months have passed since the last registration due date for which CPE was completed. Eight hours of ethics CPE shall be required if 25 – 48 months have passed since the last registration due date for which CPE was completed. The hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:
    - i. Ethics related to the practice of accounting including the Code of Professional Conduct of

the American Institute of Certified Public Accountants; and

ii. Board statutes and administrative rules.

- D. Reporting: A registrant or an applicant for reactivation or reinstatement, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE:
  1. Sponsoring organization,
  2. Number of CPE credit hours,
  3. Title of program or description of content,
  4. Dates attended,
  5. Subject, and
  6. Method.
- E. In addition to the information required under subsection (D), a registrant or an applicant for reactivation or reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to subsection (G) shall provide the Board the following CPE records at its request: copies of transcripts, course outlines, and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.
- F. CPE Record Retention: A registrant shall maintain CPE records for three years from the date the registration was dated as received by the Board the following documents for all CPE completed for the registration period, even if not reported on the registration: transcripts, course outlines, and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.
- G. CPE audits: The Board, at its discretion, may conduct audits of a registrant's CPE and require that the registrant provide the CPE records that the registrant is required to maintain under subsection (F) to verify compliance with CPE requirements.
- H. The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.
- I. A non-resident registrant seeking renewal of a certificate in this state shall be determined to have met the CPE requirements of this Section by meeting the CPE requirements for renewal of a certificate in the jurisdiction in which the registrant's principal place of business is located.
  1. Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the jurisdiction in which the registrant's principal place of business is located by signing a statement to that effect on the renewal application of this state.
  2. If a non-resident registrant's principal place of business jurisdiction has no CPE requirements for renewal of a certificate or license, the non-resident registrant must comply with all CPE requirements for renewal of a certificate in this state.

#### Historical Note

Adopted effective December 19, 1979 (Supp. 79-6). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-53 renumbered as Section R4-1-453 and amended in subsections (A) and (B) effective July 1, 1983 (Supp. 83-4). Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective July 15, 1988 (Supp. 88-3). Correction, Historical Note for Supp. 88-3 should read "Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective January 1, 1990, filed July 15, 1988" (Supp. 89-1). Section repealed, new Section adopted effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 1886, effective January 1, 2005 (Supp. 04-2). Amended by final rulemaking at 14 A.A.R. 2927, effective January 1, 2009

## CHAPTER 1. BOARD OF ACCOUNTANCY

(Supp. 08-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**R4-1-454. Peer Review**

- A.** Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, issued April 2019 and published June 1, 2020 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 ([www.aicpa.org](http://www.aicpa.org)), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.
- B.** A firm must allow the sponsoring organization to make the following documents accessible to the Board via the FSBA process:
1. Peer review report which has been accepted by the sponsoring organization,
  2. Firm's letter of response accepted by the sponsoring organization, if applicable,
  3. Completion letter from the sponsoring organization,
  4. Letter or letters accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the sponsoring organization, if applicable, and
  5. Letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.
- C.** Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.
- D.** Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this Section. If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

**Historical Note**

Adopted effective July 1, 1983 (Supp. 83-4). Repealed effective November 20, 1998 (Supp. 98-4). New Section made by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004. Amended by final rulemaking at 12 A.A.R. 2823, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**R4-1-455. Professional Conduct and Standards**

- A.** It is the Board's policy that the rules governing registrants be consistent with the rules governing the accounting profession generally. Except as otherwise set forth in these rules, registrants shall conform their conduct to the Code of Professional Conduct, published June 1, 2020 in the AICPA Professional

Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 ([www.aicpa.org](http://www.aicpa.org)), available from the AICPA.

- B.** The AICPA Code of Professional Conduct, and any interpretations and ethical rulings by the issuing body, shall apply to all registrants, including those who are not members of the AICPA. The version specified above, including any interpretations and ethical rulings in effect shall apply. Any later amendments, additions, interpretations, or ethical rulings shall not apply.

**Historical Note**

Former Rule 9; Amended effective January 15, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-56 renumbered as Section R4-1-455 and amended in subsections (B) and (D) effective July 1, 1983 (Supp. 83-4). Section R4-1-455 amended and divided into R4-1-455 and R4-1-455.01 thru R4-1-455.04 effective April 22, 1992 (Supp. 92-2). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

**R4-1-455.01. Professional Conduct: Definitions; Interpretations**

Interpretation of definitions: All terms defined in A.R.S. § 32-701 et seq. shall be construed, to the extent possible, to be consistent with corresponding definitions in the professional standards adopted in R4-1-455. The foregoing notwithstanding, for purposes of R4-1-455 and the professional standards adopted therein references to "member" shall be to "registrant" as defined in A.R.S. § 32-701.

**Historical Note**

Section R4-1-455.01 renumbered from R4-1-455(B) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

**R4-1-455.02. Professional Conduct: Competence and Technical Standards**

- A.** In reporting on financial statements for which a registrant has performed attest services (as defined in A.R.S. § 32-701) any of the following will constitute a violation of A.R.S. § 32-741(A)(4):
1. In an audit engagement, failing to:
    - a. Prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:
      - i. The nature, timing, and extent of the audit procedures performed;
      - ii. The results of the audit procedures performed, and the audit evidence obtained; and
      - iii. Significant findings or issues arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions;

## CHAPTER 1. BOARD OF ACCOUNTANCY

- b. Obtain sufficient appropriate evidence to conclude that the financial statements taken as a whole are free from material misstatement; or
- c. Modify the opinion in the auditor's report when:
  - i. The financial statements as a whole are materially misstated; or
  - ii. Sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement has not been obtained.
- 2. In a review engagement, failing to:
  - a. Accumulate sufficient review evidence to provide a reasonable basis for obtaining limited assurance that there are no material modifications that should be made to the financial statements in order to be in conformity with the applicable financial reporting framework; or
  - b. Modify the accountant's review report for a departure from the applicable financial reporting framework, including inadequate disclosure, that is material to the financial statements.
- 3. In an examination of prospective financial statements engagement, failing to:
  - a. Obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report; or
  - b. Modify the report when:
    - i. One or more significant assumptions do not provide a reasonable basis for the prospective financial statements; or
    - ii. The examination is affected by conditions that preclude application of one or more procedures considered necessary in the circumstances.
- B. The provisions of this subsection are not intended to be all inclusive or to limit the application of A.R.S. § 32-741(A)(4).

**Historical Note**

Section R4-1-455.02 renumbered from R4-1-455(C) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

**R4-1-455.03. Professional Conduct: Specific Responsibilities and Practices**

- A. Discreditable acts: In addition to any other acts prohibited by any standards incorporated in these rules, a registrant shall not commit an act that reflects adversely on the registrant's fitness to engage in the practice of public accounting, including and without limitation:
  - 1. Violating a provision of R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 or R4-1-455.04;
  - 2. Violating a fiduciary duty or trust relationship with respect to any person; or
  - 3. Violating a provision of A.R.S. Title 32, Chapter 6, Article 3, or this Chapter.
- B. Advertising practices and solicitation practices: A registrant has violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising or solicitation of accounting services through any media, if the registrant willfully engages in any of the following conduct:
  - 1. Violates A.R.S. § 44-1522 and a court finds the violation willful;

- 2. Engages in fraudulent or misleading practices in the advertising of accounting services that leads to a conviction pursuant to A.R.S. § 44-1481; or
- 3. Engages in fraudulent practices in the advertising of accounting services that leads to a conviction for a violation of any other state or federal law.
- C. Form of practice and name: A registrant shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as "& Company," "& Associates," or "& Consultants" unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.
- D. Communications: When requested, a registrant shall file a written response to a communication from the Board within 30 days of the date of the mailing of such communication by certified mail. A written response is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the Board's office. The Board shall not accept a postmark as evidence of timely filing.
- E. The provisions of R4-1-455.03(A) through (C) are not intended to be all inclusive or to limit the application of any standards incorporated by R4-1-455.

**Historical Note**

Section R4-1-455.03 renumbered from R4-1-455(D) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 12 A.A.R. 2823, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 1807, effective June 15, 2017 (Supp. 17-2). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

**R4-1-455.04. Professional Conduct: Records Disposition**

Document retention policies. Except as set forth in A.R.S. § 32-744(D), a registrant may retain and dispose of documents prescribed in A.R.S. § 32-744(C) in compliance with a reasonable document retention policy.

**Historical Note**

Section R4-1-455.04 renumbered from R4-1-455(E) and amended effective April 22, 1992 (Supp. 92-2). Section number corrected (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

**R4-1-456. Reporting Practice Suspensions and Violations**

- A. A registrant shall report to the Board:
  - 1. Any suspension or revocation of the right to practice accounting before the federal Securities and Exchange Commission, the Internal Revenue Service, or any other state or federal agency;
  - 2. Any final judgment in a civil action or administrative proceeding in which the court or public agency makes findings of violations, by the registrant, of any fraud provisions of the laws of this state or of federal securities laws;
  - 3. Any final judgment in a civil action in which the court makes findings of accounting violations, dishonesty, fraud, misrepresentation, or breach of fiduciary duty by the registrant;

## CHAPTER 1. BOARD OF ACCOUNTANCY

4. Any final judgment in a civil action involving negligence in the practice of public accounting by the registrant; and
  5. All convictions of the registrant of any felony, or any crime involving accounting or tax violations, dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, or breach of fiduciary duty.
- B.** A registrant required to report under subsection (A) shall make the report in the form of a written letter and ensure that the report is received by the Board within 30 days after the entry of any judgment or suspension or revocation of the registrant's right to practice before any agency. The registrant shall ensure that the letter contains the following information:
1. Description of the registrant's activities that resulted in a suspension or revocation;
  2. Final judgment or conviction;
  3. Name of the state or federal agency that restricted the registrant's right to practice;
  4. Effective date and length of any practice restriction;
  5. Case file number of any court action, civil or criminal;
  6. Name and location of the court rendering the final judgment or conviction; and
  7. Entry date of the final judgment or conviction.

**Historical Note**

Adopted effective November 5, 1980 (Supp. 80-6). Former Section R4-1-57 renumbered as Section R4-1-456 without change effective July 1, 1983 (Supp. 83-4). Amended effective February 23, 1993 (Supp. 93-1). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

**Appendix A. Repealed****Historical Note**

Adopted effective February 22, 1978 (Supp. 78-1). Amended effective December 19, 1979 (Supp. 79-6). Editorial correction, Footnote\*\*, Rules reference corrected (Supp. 83-4). Repealed effective May 31, 1991 (Supp. 91-2).

**Appendix B. Repealed****Historical Note**

Adopted effective February 22, 1978 (Supp. 78-1). Repealed effective April 22, 1992 (Supp. 92-2).

### 32-703. Powers and duties; rules; executive director; advisory committees and individuals

A. The primary duty of the board is to protect the public from unlawful, incompetent, unqualified or unprofessional certified public accountants through certification, regulation and rehabilitation.

B. The board may:

1. Investigate complaints filed with the board or on its own motion to determine whether a certified public accountant has engaged in conduct in violation of this chapter or rules adopted pursuant to this chapter.

2. Establish and maintain high standards of competence, independence and integrity in the practice of accounting by a certified public accountant as required by generally accepted auditing standards and generally accepted accounting principles and, in the case of publicly held corporations or enterprises offering securities for sale, in accordance with state or federal securities agency accounting requirements.

3. Establish reporting requirements that require registrants to report:

(a) The imposition of any discipline on the right to practice before the federal securities and exchange commission, the internal revenue service, any state board of accountancy, other government agencies or the public company accounting oversight board.

(b) Any criminal conviction, any civil judgment involving negligence in the practice of accounting by a certified public accountant and any judgment or order as described in section 32-741, subsection A, paragraphs 7 and 8.

4. Establish basic requirements for continuing professional education of certified public accountants, except that the requirements shall not exceed eighty hours in any registration renewal period.

5. Adopt procedures concerning disciplinary actions, administrative hearings and consent decisions.

6. Issue to qualified applicants certificates executed for and on behalf of the board by the signatures of the president and secretary of the board.

7. Adopt procedures and rules to administer this chapter.

8. Require peer review pursuant to rules adopted by the board on a general and random basis of the professional work of a registrant engaged in the practice of accounting.

9. Subject to title 41, chapter 4, article 4, employ an executive director and other personnel that it considers necessary to administer and enforce this chapter.

10. Appoint accounting and auditing, tax, peer review, law, certification, continuing professional education or other committees or individuals as it considers necessary to advise or assist the board or the board's executive director in administering and enforcing this chapter. These committees and individuals serve at the pleasure of the board.

11. Take all action that is necessary and proper to effectuate the purposes of this chapter.

12. Sue and be sued in its official name as an agency of this state.

13. Adopt and amend rules concerning the definition of terms, the orderly conduct of the board's affairs and the effective administration of this chapter.

14. Delegate to the executive director the authority to:

(a) Approve an applicant to take the uniform certified public accountant examination pursuant to section 32-723.

- (b) Issue a certificate of certified public accountant pursuant to section 32-721.
- (c) Approve an application for firm registration pursuant to section 32-731.
- (d) Approve a registrant's name change and reissue a certificate of certified public accountant due to the name change.
- (e) Approve a registrant's cancellation request pursuant to section 32-730.02.
- (f) Approve a request for retired status pursuant to section 32-730.04.
- (g) Approve reactivation from inactive status or retired status pursuant to section 32-732.
- (h) Approve compliance with peer review requirements pursuant to this section.
- (i) Approve compliance with continuing professional education audits.
- (j) Approve continuing professional education compliance with decisions and orders.
- (k) Terminate decisions and orders based on a registrant's successful completion of all order requirements.
- (l) Approve a request for continuing professional education reciprocity.

C. The board or an authorized agent of the board may:

1. Issue subpoenas to compel the attendance of witnesses or the production of documents. If a subpoena is disobeyed, the board may invoke the aid of any court in requiring the attendance and testimony of witnesses and the production of documents.
2. Administer oaths and take testimony.
3. Cooperate with the appropriate authorities in other jurisdictions in investigation and enforcement concerning violations of this chapter and comparable statutes of other jurisdictions.
4. Receive evidence concerning all matters within the scope of this chapter.

**D.**

CONSIDERATION AND DISCUSSION OF A.R.S. § 41-1033(G) PETITION ON BOARD OF BEHAVIORAL HEALTH EXAMINERS RULE R4-6-1106(B)



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM

---

**MEETING DATE:** March 1, 2022 and May 3, 2022

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** February 14, 2022, *updated April 13, 2022*

**SUBJECT:** **A.R.S. 41-1033(G) Petition - Board of Behavioral Health Examiners**

---

### **I. Background**

On January 4, 2022, Council staff received a Petition from Bretton Barber, Esq. (Petitioner) challenging Board of Behavioral Health Examiners (Board) rule R4-6-1106(B) pursuant to A.R.S. § 41-1033(G). The rule at issue, R4-6-1106, relates to telepractice by Board-regulated providers. The specific subsection of the rule being challenged, R4-6-1106(B), states:

[e]xcept as otherwise provided by statute, a licensee who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located outside Arizona shall comply with not only A.R.S. Title 32, Chapter 33, and this Chapter but also the laws and rules of the jurisdiction in which the client is located.

The Board adopted this rule through an exempt rulemaking in 2015 at 21 A.A.R. 2631 (November 6, 2015). The Legislature authorized the Board to conduct exempt rulemaking and to adopt rules regarding the use of telepractice in Laws 2013, Chapter 242, § 27 and Laws 2015, Chapter 154, § 10, respectively.<sup>1</sup>

---

<sup>1</sup> The petition states that "[t]he rule is a portion of a package of rules passed in the early months of the COVID-pandemic as most behavioral health practitioners resorted to telemedicine as a means of providing services to their clients." See Petition at 1. This rule was in place for more than 4 years prior to when the World Health Organization (WHO) declared COVID-19 to be a pandemic on March 11, 2020.

The Board amended its rules again at 26 A.A.R. 2881 (November 13, 2020), but did not change the language in R4-6-1106(B) in that rulemaking.

## **II. Petitioner's argument**

The Petitioner alleges that this rule is unduly burdensome and not demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern under A.R.S. § 41-1033(G). The Petitioner states that “when put into practice, this rule (as currently written) largely bars licensed Arizona behavioral health practitioners from being able to provide telemedicine services.” Petition at 2. The Petitioner further states that the language in the rule requiring a provider to comply not only with Arizona statutes but also the laws and rules of the jurisdiction in which the client is located “effectively makes it not possible for their provider to be able to conduct therapy sessions so long as their client is out of the country. Essentially, anytime a provider’s client leaves the state of Arizona, under this rule, the provider cannot provide telemedicine to that client.” Petition at 3. The Petitioner contends that while “the provider could become licensed in the jurisdiction that the client relocated to for a temporary or permanent work assignment, or even a vacation with advance notice (however it would still not be realistic for someone going overseas), that is a long, costly, comprehensive process for most behavioral health providers.” Petition at 4. The Petitioner notes that this is the reason most providers in Arizona are only licensed in Arizona, and concludes that “[t]he current rule is, and continues, to proactively do harm to those clients of Arizona licensees that are unable to see their provider the second they step out of the border of the state of Arizona.” Petition at 4-5.

## **III. Procedural History**

At the March 1, 2022 Council Meeting, at least four Council Members voted to request of the Chair that this matter be heard at a public meeting pursuant to A.R.S. § 41-1033(H). Thereafter, the Board submitted its statutorily required response to the petition to Council staff on March 31, 2022. Below is a brief overview of the Board’s response.

## **IV. Board's Response**

In its response dated March 31, 2022, the Board states in relevant part:

Petitioner claims, without citation to legal authority that the Board rule is unduly burdensome because an Arizona licensee providing therapy to a client located outside of Arizona would be required to comply with not only Arizona law but also the laws governing behavioral health in the remote jurisdiction. Petitioner’s argument fails for several reasons. First, the Board rule is a correct statement of Arizona law pursuant to the Board statutes and general telehealth statutes. A.R.S. § 32-3251(15), (16)(dd) (Telehealth); A.R.S. § 36-3603 (Telehealth: State jurisdiction; scope). Second, the Board rule is consistent with other Arizona regulatory Boards and with the legal framework of compact licensure adopted by several Arizona health care boards intended to promote license portability. See e.g. A.R.S. § 32-3241 (Medical Licensure Compact); A.R.S. § 32-2053 (Physical Therapy Licensure Compact); A.R.S. § 32-1660 (Nurse Licensure Compact).

Third, the Board rule is consistent with other states which require out-of-state licensees providing telehealth to clients in their state to be licensed in their state reflecting the remote state interest of conduct occurring within their jurisdiction. Lastly, the Arizona general telehealth statutes require an out-of-state licensee to register with the specific Arizona health care regulatory Board in order to provide telehealth to a client in Arizona. A.R.S. § 36-3606 (telehealth registration requirements for health care provider not licensed in Arizona to provide telehealth services to a person located in Arizona). An out-of-state licensee is not able to provide telehealth services in Arizona as the Petitioner suggests. Rather, the out-of-state licensee is required to comply with statutory requirements for registration prior to providing services to clients in Arizona. *Id.* For these salient reasons, the petition must be denied.

See Board response at 2.

#### **V. Procedure for A.R.S. § 41-1033(G) Petitions**

A.R.S. § 41-1033(G) allows a person to “petition the council to request a review of an existing agency practice, substantive policy statement, final rule or regulatory licensing requirement that the petitioner alleges is not specifically authorized by statute, is unduly burdensome or is not demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern. On receipt of a properly submitted petition pursuant to this section, the council shall review the existing agency practice, substantive policy statement, final rule or regulatory licensing requirement as prescribed by this section.”

If the Council receives information pursuant to A.R.S. § 41-1033(G), and at least four Council members request of the Chairperson that the matter be heard in a public meeting:

1. Within ninety days after receipt of the fourth council member's request, the council shall determine whether the agency practice or substantive policy statement constitutes a rule, whether the final rule meets the requirements prescribed in section 41-1030 or whether an existing agency practice, substantive policy statement, final rule or regulatory licensing requirement meets the guidelines prescribed in subsection G of this Section.
2. Within ten days after receipt of the fourth council member's request, the council shall notify the agency that the matter has been or will be placed on an agenda.
3. Not later than thirty days after receiving notice from the council, the agency shall submit a statement to the council that addresses whether the existing agency practice, substantive policy statement constitutes a rule or whether the final rule meets the requirements prescribed in section 41-1030 or whether an existing agency practice, substantive policy

statement, final rule or regulatory licensing requirement meets the guidelines prescribed in subsection G of this section.

*See* A.R.S. § 41-1033(H).

After considering the petition, the Board's response, and the supporting materials submitted, the Council must make a decision that includes findings of fact and conclusions of law, separately stated. The conclusions of law shall specifically address the agency's authority to act consistent with section 41-1030. See A.R.S. § 41-1033(K). Pursuant to A.R.S. § 41-1033(H)(1), the Council must make its decision within 90 days after receipt of the fourth council member's request, which occurred at the March 1, 2022 Council Meeting. As such, the Council has until May 30, 2022 to make a decision.

#### **V. Conclusion**

The petition is properly before the Council and both parties have submitted materials consistent with the requirements in the statute as indicated above. Council staff advises the Council to consider the materials both parties submitted and to question both parties as to whether the requirements of R4-6-1106(B) violate A.R.S. 41-1033(G).

**PETITION TO AMEND OR REPEAL A FINAL RULE UNDER  
A.R.S. § 41-1033(G)**

**VIA ELECTRONIC MAIL**

Ms. Nicole Sornsin, Chairwoman  
Governor's Regulatory Review Council  
100 N. 15th Ave., #305  
Phoenix, AZ 85007

January 4, 2022

**Petitioner:** Bretton Barber, Esq. of Barber Law Group, PLLC  
**Mailing Address:** 2 N. Central Ave., Ste. 1800, Phoenix, AZ 85004  
**Email Address:** brettton@barberlawgroup.com  
**Telephone:** (602) 489-9394

This Petition is brought before this Honorable Council as it alleges that an agency's recently adopted final rule is "unduly burdensome or is not demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern." A.R.S. § 41-1033(G). This Petition is brought to either repeal or amend R4-6-1106(B), which is found under Title 4, Chapter 6, of the Arizona Administrative Code. The rule is a portion of a package of rules passed in the early months of the COVID-Pandemic as most behavioral health practitioners resorted to telemedicine as a means of providing services to their clients. While the rest of R4-6-1106 is very well intentioned and should remain undisturbed, subsection (B) is both "unduly burdensome" and has not been "demonstrated to specifically fulfill a public health, safety, or welfare concern." A.R.S. § 41-1033(G). This Council has clear statutory authority to amend or repeal the rule.

**PETITION TO AMEND OR REPEAL A FINAL RULE UNDER  
A.R.S. § 41-1033(G)**

The rule reads:

**A.A.C. R4-6-1106**

**B. Except as otherwise provided by statute, a licensee who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located outside Arizona shall comply with not only A.R.S. Title 32, Chapter 33, and this Chapter *but also the laws and rules of the jurisdiction in which the client is located.* (Emphasis Added)**

On its face, the rule does seem to be reasonable and an innocuous precaution for mental healthcare providers in Arizona who are providing services through telemedicine (usually video chats). However, when put into practice, this rule (as currently written) largely bars licensed Arizona behavioral health practitioners from being able to provide telemedicine services.

As the rule states, if an Arizona licensee is providing behavioral health services, *while the licensee is in the State of Arizona and their client is located outside of Arizona*, the licensee must “comply...also [with] the laws and rules of the jurisdiction in which the client is located.” This is the language that effectively bans licensed providers in Arizona from being able to provide services via telemedicine. While there is no doubt the language of the rule was well-intentioned, its impact is incredible. Let’s look at a hypothetical example: If a licensee of the Arizona Board of Behavioral Health Examiners had been providing therapy to a client for years, and then the client did any of the following: moved out of state either permanently or temporarily for work, perhaps tried hard to

**PETITION TO AMEND OR REPEAL A FINAL RULE UNDER  
A.R.S. § 41-1033(G)**

obtain a new therapist (or did not even bother because the work assignment was six weeks), and instead decided they would want to continue services with their provider in Arizona, this rule makes it nearly impossible to do so. Or, for example, if an Arizonan decided that they wanted to take a long, international trip, for three weeks and they were seeing their provider in Arizona, in person, weekly? This rule effectively makes it not possible for their provider to be able to conduct therapy sessions so long as their client is out of the country. Essentially, anytime a provider's client leaves the state of Arizona, under this rule, the provider cannot provide telemedicine to that client. But why?

The rule states that if the client is located outside of the state of Arizona, even though the provider is in Arizona, that the provider must comply with “the laws and rules of the jurisdiction in which the client is located.” Nearly every United States jurisdiction (the fifty states, the District of Columbia, and the various possessions and territories) have rules in their jurisdictions which state that if one wants to provide behavioral health services to a person, *then they must be licensed in the jurisdiction*. This means that any of the people in the above-mentioned hypotheticals would only be able to see their provider if their provider were also licensed in whatever United States jurisdiction (*or foreign country's*) that person happened to be visiting or had moved to for work. In other words, this rule, as written, only allows for telemedicine to be conducted if *both the provider and the*

**PETITION TO AMEND OR REPEAL A FINAL RULE UNDER  
A.R.S. § 41-1033(G)**

*therapist are in the state of Arizona.* Theoretically, the provider could become licensed in the jurisdiction that the client relocated to for a temporary or permanent work assignment, or even a vacation with advance notice (however it would still not be realistic for someone going overseas), that is a long, costly, comprehensive process for most behavioral health providers. For example, Licensed Professional Counselors (LPC's) AKA therapists have no universal reciprocity system in the United States, unlike nurses, for example. To become a licensed therapist in a different state is so costly and time consuming that the vast majority of licensed therapists in Arizona are only licensed in the state of Arizona.

Continuity of care is extremely important in a client-provider relationship, and that is even more true now than ever before with the COVID-19 pandemic. The behavioral health system is already broken in terms of the demand for providers compared to the availability of those providers. This is compounded by the fact that providers of behavioral health services are also facing the doldrums that have come with living in this pandemic for two years with no end in sight. To have to force a *licensed* Arizona behavioral health provider to essentially abandon their patients, possibly during a time of change when the client is at an even greater need of services, not only is “unduly burdensome” but has never been “demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern;” quite the opposite. The current rule is, and continues, to

**PETITION TO AMEND OR REPEAL A FINAL RULE UNDER  
A.R.S. § 41-1033(G)**

proactively do harm to those clients of Arizona licensees that are unable to see their provider the second they step out of the border of the state of Arizona.

In conclusion, I would remind this Council that in the year 2020 there were 45,855 suicides completed in the United States. Suicide is a leading cause of death in the United States (10th), and there were nearly 2.5 times more suicides than homicides in 2020 (19,141). *Suicide was the second leading cause of death among individuals between the ages of 10 and 34, and the fourth leading cause of death among individuals between the ages of 35 and 44.*

I humbly submit that this Honorable Council review the Rule at issue, and either amend it to remove the language that effectively prohibits out of state practice, or repeal subsection (B) altogether. The demand on the essential workers that collectively provide behavioral health services has never been greater, perhaps at any times in this country's history. We are living through a once in a hundred-year pandemic that has upended almost every aspect of our lives. We must seek to expand access to care and expand providers' abilities to be able to offer their skill sets to those in need; this is not a time to limit the opportunity for more people to receive behavioral health services.

Submitted Respectfully,

/s/ Bretton Barber  
Bretton Barber  
Barber Law Group, PLLC



STATE OF ARIZONA  
BOARD OF BEHAVIORAL HEALTH EXAMINERS  
1740 WEST ADAMS STREET, SUITE 3600  
PHOENIX, AZ 85007  
PHONE: 602.542.1882 FAX: 602.364.0890  
Board Website: [www.azbbhe.us](http://www.azbbhe.us)  
Email Address: [information@azbbhe.us](mailto:information@azbbhe.us)

DOUGLAS A. DUCEY  
Governor

TOBI ZAVALA  
Executive Director

March 31, 2022

**VIA EMAIL:** [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Nicole Sornsin, Chairperson  
Governor's Regulatory Review Council  
100 North Fifteenth Avenue # 305  
Phoenix, Arizona 85007

Re: A.R.S. § 41-1033(G) Petition from Bretton Barber, Esq., Barber Law Group, PLLC

Dear Governor's Regulatory Review Council:

The Arizona State Board of Behavioral Health Examiners ("Board") reviewed the petition filed by Mr. Barber ("Petitioner") at its March 11, 2022 Board meeting. The Board also reviewed and discussed A.A.C. R4-6-1106(B) ("the Board rule") and provides the following response to support a decision that the rule reflects a correct statement of Arizona law, is not unduly burdensome and is necessary to fulfill a public health, safety or welfare concern. A.R.S. § 41-1033(G).

A.A.C. R4-6-1106 Telepractice

A. Except as otherwise provided by statute, an individual who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located in Arizona shall be licensed by the Board.

B. Except as otherwise provided by statute, a licensee who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice to a client located outside Arizona shall comply with not only A.R.S. Title 32, Chapter 33, and this Chapter but also the laws and rules of the jurisdiction in which the client is located.

C. An individual who provides counseling, social work, marriage and family therapy, or substance abuse counseling via telepractice shall:

1. In addition to complying with the requirements in R4-6-1101, document the limitations and risks associated with telepractice, including but not limited to the following;

- a. Inherent confidentiality risks of electronic communication,
- b. Potential for technology failure,
- c. Emergency procedures when the licensee is unavailable, and
- d. Manner of identifying the client when using electronic communication that does not involve video;

2. In addition to complying with the requirements in R4-6-1103, include the following in the progress note required under R4-6-1103(H):

- a. Mode of session, whether interactive audio, video, or electronic communication; and
- b. Verification of the client's:
  - i. Physical location during the session; and
  - ii. Local emergency contacts.

Petitioner claims, without citation to legal authority that the Board rule is unduly burdensome because an Arizona licensee providing therapy to a client located outside of Arizona would be required to comply with not only Arizona law but also the laws governing behavioral health in the remote jurisdiction. Petitioner's argument fails for several reasons. First, the Board rule is a correct statement of Arizona law pursuant to the Board statutes and general telehealth statutes. A.R.S. § 32-3251(15), (16)(dd) (Telehealth); A.R.S. § 36-3603 (Telehealth: State jurisdiction; scope). Second, the Board rule is consistent with other Arizona regulatory Boards and with the legal framework of compact licensure adopted by several Arizona health care boards intended to promote license portability. *See e.g.* A.R.S. § 32-3241 (Medical Licensure Compact); A.R.S. § 32-2053 (Physical Therapy Licensure Compact); A.R.S. § 32-1660 (Nurse Licensure Compact). Third, the Board rule is consistent with other states which require out-of-state licensees providing telehealth to clients in their state to be licensed in their state reflecting the remote state interest of conduct occurring within their jurisdiction. Lastly, the Arizona general telehealth statutes require an out-of-state licensee to register with the specific Arizona health care regulatory Board in order to provide telehealth to a client in Arizona. A.R.S. § 36-3606 (telehealth registration requirements for health care provider not licensed in Arizona to provide telehealth services to a person located in Arizona). An out-of-state licensee is not able to provide telehealth services in Arizona as the Petitioner suggests. Rather, the out-of-state licensee is required to comply with statutory requirements for registration prior to providing services to clients in Arizona. *Id.* For these salient reasons, the petition must be denied.

Petitioner initially claims that A.A.C. R-4-6-1106(B) passed in the early months of the COVID pandemic as most behavioral health practitioners resorted to telehealth. Petitioner's remaining arguments are premised on this inaccurate statement. A brief review of the Board's telehealth legislation is instructive on the issues raised in the petition. In 2004, the Board adopted a statute in their definition of unprofessional conduct that was a precursor to the concept of telehealth. 2003 Ariz. Legis. Serv. Ch. 65 (H.B. 2206) (A.R.S. § 32-3251(12)(dd)); A.R.S. § 32-3251(16)(dd). This subsection provides that unprofessional conduct includes the failure "to comply with the laws of the appropriate licensing or credentialing authority to provide behavioral health services by electronic means in all governmental jurisdictions where the client receiving these services resides." *Id.* (Emphasis added.) Although this subsection does not include the word telehealth, it conveys the concept that a licensee providing therapy through electronic means to out-of-state clients is required to comply with the laws of that jurisdiction. Therefore statutory support for the Board rule has been in existence for 18 years.

As the concept of telehealth gained traction over the next decade the Board responded with legislation to provide regulatory parameters. Contrary to Petitioner's argument, Arizona behavioral health licensees were practicing telehealth long before the pandemic. Senate Bill 1212, which was approved by the governor seven years ago on April 1, 2015, with an effective date of July 3, 2015, included the definition of telepractice in the Board's definitions. 2015 Ariz. Legis. Serv. Ch. 154 (S.B. 1212); A.R.S. § 32-3251(15).<sup>1</sup> Senate Bill 1212 also amended A.R.S. § 32-3253, powers and duties of the Board, with the addition of the subsection directing the Board to "adopt rules regarding the use of telepractice beginning on November 1, 2015." *Id.* Section 11, effective Oct. 31, 2015.

In response to the directive in Senate Bill 1212, the Board adopted A.A.C. R4-6-1106 regarding the use of telepractice. A.A.C. R-4-6-1106 became effective on November 1, 2015 and was enacted during the emerging years of telehealth regulation. The rule is also consistent with the American Counseling Association Code of Ethics passed a year earlier in 2014. A.C.A. § H (Distant Counseling, Technology & Social Media). Specifically, section H.1.b. states that counselors who engage in the use of distance counseling within their practice understand that they may be subject to laws and regulations of both the counselor’s practicing location and the client’s place of residence. *Id.* The ethical rule also states that counselors must ensure that their clients are aware of pertinent legal rights and limitations governing the practice of counseling across state lines or international boundaries. *Id.* Therefore, Arizona responded to the emerging practice of telehealth through legislation and rulemaking in 2015. Arizona behavioral health licensees were poised to address the associated profound mental health ramifications and needs of their clients caused by the pandemic because of the existing telehealth statutory and administrative rule framework.

Further support for the Board’s rule is found in the general telehealth statutes. A.R.S. § 36-3601 *et seq.* The Board’s definition of telepractice references the general telehealth statute in Arizona Revised Statutes Title 36, Chapter 36. In 2014, behavioral health licensees were among the first licensees authorized to provide telehealth in Arizona. 2014 Ariz. Legis. Serv. Ch. 67 (S.B. 1050); A.R.S. § 36-3601. A.R.S. § 36-3603 defines the jurisdiction and scope of the article as applying to the practice of telemedicine within Arizona. The jurisdictional statement and statutory scheme in the telehealth statutes support and are consistent with the Board’s rule and do not authorize Arizona licensees to provide telehealth beyond the Arizona borders. *Id.*

Petitioner also suggests that behavioral health licensees were unable to effectively respond to client needs during the pandemic. Petitioner’s assertion is without merit and contrary to law. As stated above, the Board’s statutes and rules that were already in existence permitted behavioral health licensees to seamlessly pivot to provide telehealth to their clients because the law already permitted it. At the onset and in the midst of the pandemic, Governor Ducey issued multiple Executive Orders addressing telehealth. Executive Orders 2020-07 (Proactive Measures to Protect Against COVID-19); 2020-15 (Expansion of Telemedicine); 2020-29 (Increased Telemedicine Access for Worker’s Compensation). The Arizona legislature passed House Bill 2454 to ensure the continued access to telehealth beyond the pandemic. Executive Order 2021-13, Rescinding Telemedicine Executive Orders Due to Passage of Permanent Legislation, stated that the legislation “is important to ensuring that all Arizonans across the State, especially those in rural areas, have continued access to this option to receive care.”

On May 5, 2021, Governor Ducey signed House Bill 2454 with an immediate effective date. The bill contained changes to telehealth practice in Arizona. 2021 Ariz. Legis. Serv. Ch. 320 (H.B. 2454). Those changes included expanding the list of health care providers who are authorized to provide telehealth services. A.R.S. § 36-3601. It also deleted the definition of “telemedicine” and added a definition of “telehealth.” *Id.* The Board definition of telemedicine was amended and incorporated the definition of telehealth in section 36-3601(4).<sup>2</sup> Arizona Revised Statute section 36-3603, which underwent minor modification, specifically addresses state jurisdiction and scope of telehealth to apply only to telehealth practice in the state.<sup>3</sup>

During the February 22, 2022 Study Session, the Council inquired regarding how other Arizona regulatory boards, such as the medical board, address this issue. Upon consultation with the medical board and optometry board executive directors, verification was obtained that the boards would require the Arizona licensee providing telehealth to an out-of-state patient to comply with the licensure requirements of Arizona and the remote-state. In other words, contrary to Petitioner’s

assertions, an Arizona license does not extend its authority beyond the borders of Arizona and grant the licensee the right to practice in other jurisdictions without regard to the laws of that jurisdiction. Additionally, other health care regulatory boards have resolved the issue of license portability, in part, by entering into multistate compacts. *See e.g.* A.R.S. § 32-3241 (Medical Licensure Compact); A.R.S. § 32-2053 (Physical Therapy Licensure Compact); A.R.S. § 32-1660 (Nurse Licensure Compact).

Petitioner draws the conclusion, without authoritative citation, that the Board's rule is an incorrect statement of the law and creates a chilling effect on care because an Arizona licensee would have to comply with the laws of the remote jurisdiction. A brief examination of remote state laws, such as California, a popular vacation spot for Arizona residents, supports the conclusion that the Board rule reflects a correct statement of the law. The California telehealth statute provides that a person with a client who is physically located in California must have a valid and current license or registration issued by the California Board. 16 CCR § 1815.5(a), (e).<sup>4</sup> The California statute mirrors the Board rule regarding out-of-state practice by California licensees. 16 CCR § 1815.5(e). The statute provides that a California licensee may provide telehealth services to clients located in another jurisdiction only if the California licensee meets the requirements to lawfully provide services in that jurisdiction. *Id.* Nevada similarly has a statute that requires a distant site provider of health care to use telehealth to provide care to a patient in Nevada provided that they hold a valid Nevada license. N.R.S. 629-515 (Oct. 1, 2021).<sup>5</sup>

The Council during the Study Session posed the question regarding how Arizona treats out-of-state licensees who wish to provide telehealth services to patients in Arizona. House Bill 2454 added legislation to address this situation. A.R.S. § 36-3606. An out-of-state health care provider who is not licensed in Arizona is required to complete a registration process in order to provide telehealth services to a person located in Arizona. *Id.* An out-of-state health care provider is required to follow Arizona's standards of care for the applicable health care profession, again underscoring the remote-state interest in the conduct occurring within its jurisdiction. *Id.* This Arizona registration process for out-of-state health care providers who are not licensed in Arizona recognizes that the state where the client is located has a jurisdictional and public protection interest in the telehealth practice provided to clients in their jurisdiction. It also supports the Board's rule that Arizona licensees must comply with the legal requirements of Arizona and the remote state where the client is located.

The term "unduly burdensome" is not defined in the statute. If statutory language is clear and unambiguous, courts will give effect to a statute's plain language without resorting to other rules of statutory construction. *Wells Fargo Credit Corp. v. Tolliver*, 183 Ariz. 343, 903 P.2d 1101, 1103 (App. 1995). Arizona courts have frequently resorted to recognized, authoritative dictionaries of the English language on questions of the ordinary meaning of words contained in statutory provisions. *Airport Properties v. Maricopa County*, 195 Ariz. 89, 99, 985 P.2d 574, 584 (App. 1999). Black's Law Dictionary defines burdensome as "difficult to bear; seriously oppressive." Black's Law Dictionary (11th ed. 2019). The modifier "unduly" implies that the burden is "excessive or unwarranted." *Id.*

The Board rule as discussed above reflects a correct statement of Arizona law and the laws of remote jurisdictions and therefore cannot be viewed as seriously oppressive or excessive. The Board rule was designed to provide a clear statement of the law and guidance to licensees regarding the legal parameters of telehealth to clients physically present in Arizona and clients outside of Arizona. The Board receives inquiries from diligent licensees regarding telehealth especially since the onset of the pandemic. The Board rule provides a definitive answer to those questions.

In conclusion, A.A.C. R-4-6-1106(B) correctly reflects Arizona law. The rule protects the public by ensuring that Arizona licensees follow the licensure requirements of both Arizona and the remote-state in their telehealth practice to a very vulnerable client population. The Board respectfully requests that the Council recognize the importance of the rule in providing a clear directive to Arizona licensees to ensure their compliance with the law and to protect their clients and the public.

Respectfully submitted,



Tobi Zavala, Executive Director  
Arizona State Board of Behavioral Health Examiners

---

<sup>1</sup> A.R.S. § 32-3251(15) “Telepractice” means providing behavioral health services through interactive audio, video or electronic communication that occurs between the behavioral health professional and the client, including any electronic communication for evaluation diagnosis and treatment, including distance counseling, in a secure platform, and that meets the requirements of telemedicine pursuant to section 36-3602.

<sup>2</sup> House Bill 2454 amended A.R.S. § 32-3251(15) as follows:

15. "Telehealth" has the same meaning prescribed in section 36-3601 which is defined as:

(a) The interactive use of audio, video or other electronic media, including asynchronous store-and-forward technologies and remote patient monitoring technologies, for the practice of health care, assessment, diagnosis, consultation or treatment and the transfer of medical data.

(b) Includes the use of an audio-only telephone encounter between the patient or client and health care provider if an audio-visual telehealth encounter is not reasonably available due to the patient's functional status, the patient's lack of technology or telecommunications infrastructure limits, as determined by the health care provider.

(c) Does not include the use of a fax machine, instant messages, voice mail or email.

<sup>3</sup> A.R.S. § 36-3603. State jurisdiction; scope

This article applies to the practice of telehealth within this state. This article does not expand, reduce or otherwise amend the health care provider licensing requirements of title 32.

<sup>4</sup> 16 CCR § 1815.5 Standards of Practice for Telehealth.

(a) All persons engaging in the practice of marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling via telehealth, as defined in Section 2290.5 of the Code, with a client who is physically located in this State must have a valid and current license or registration issued by the Board.

(e) A licensee or registrant of this state may provide telehealth services to clients located in another jurisdiction only if the California licensee or registrant meets the requirements to lawfully provide services in that jurisdiction, and delivery of services via telehealth is allowed by that jurisdiction.

<sup>5</sup> N.R.S. 629.515. Valid license or certificate required; exception; restrictions; jurisdiction over and applicability of laws

1. Except as otherwise provided in this subsection, before a provider of health care who is located at a distant site may use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to NRS 630.261. The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization, as defined in 25 U.S.C. § 1603.

2. The provisions of this section must not be interpreted or construed to:

(a) Modify, expand or alter the scope of practice of a provider of health care; or

(b) Authorize a provider of health care to provide services in a setting that is not authorized by law or in a manner that violates the standard of care required of the provider of health care.

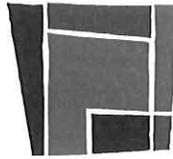
3. A provider of health care who is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient:

(a) Is subject to the laws and jurisdiction of the State of Nevada, including, without limitation, any regulations adopted by an occupational licensing board in this State, regardless of the location from which the provider of health care provides services through telehealth.

(b) Shall comply with all federal and state laws that would apply if the provider were located at a distant site in this State.

**E.**

CONSIDERATION AND DISCUSSION OF A FIVE YEAR REVIEW REPORT RESCHEDULE  
REQUEST FROM THE DEPARTMENT OF HEALTH SERVICES



## ARIZONA DEPARTMENT OF HEALTH SERVICES

April 6, 2022

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Nicole Sornsin, Esq., Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Arizona 85007

RE: Request to Reschedule Five-Year-Review Reports for A.A.C. Title 9, Chapter 25, Articles 7, 8, and 12

Dear Ms. Sornsin:

Pursuant to A.R.S. § 41-1056(H) and A.A.C. R1-6-302, the Arizona Department of Health Services (Department) requests that the Governor's Regulatory Review Council (Council) reschedule the five-year-review reports for A.A.C. Title 9, Chapter 25, Articles 7, 8, and 12. The five-year-review reports for these rules are due on or before June 30, 2022.

The Department substantially revised 9 A.A.C. 25, Articles 7, 8, and 12 in a regular rulemaking approved by the Council on April 5, 2022, with an effective date for the new rules of June 5, 2022. As part of this rulemaking, substantive changes were made throughout the Articles. These changes address non-compliance with A.R.S. § 41-1080, unnecessary or duplicative requirements, unclear requirements, obsolete requirements, and poor organization of the rules. Since the rules will be in effect for less than two years before the date the five-year-review report is due, the Department believes that this request meets the requirements in A.A.C. R1-6-302(A)(2). The Notice of Final Rulemaking should be published on April 29, 2022.

If you have any questions about the request, please contact me at (602) 542-1020.

Sincerely,

A handwritten signature in black ink, appearing to read 'RL', written over a light blue horizontal line.

Robert Lane  
Director's Designee

RL:rms

Douglas A. Ducey | Governor Don Herrington | Interim Director